

REPORT BY THE
AUDITOR GENERAL
OF CALIFORNIA

**THE STATE'S HAZARDOUS WASTE
MANAGEMENT PROGRAM HAS IMPROVED
IN SOME AREAS; OTHER AREAS
CONTINUE TO NEED IMPROVEMENT**

REPORT BY THE
OFFICE OF THE AUDITOR GENERAL

P-582.2

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OTHER AREAS CONTINUE TO NEED IMPROVEMENT

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Auditor General

May 13, 1986

P-582.2

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capitol, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning the Department of Health Services' (department) management of the State's program to control hazardous waste. The department has improved its performance in issuing permits to hazardous waste facilities and encumbering Superfund monies to clean up toxic sites. However, the department needs continued improvement in following up on violations and taking enforcement actions, collecting fines, using its manifest tracking system to track shipments of toxic waste, inspecting all facilities on a regular basis, and expending Superfund monies to clean up toxic sites.

Respectfully submitted,

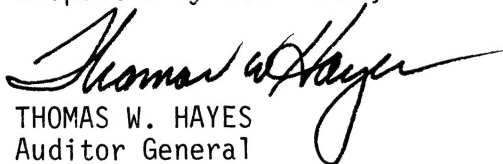

THOMAS W. HAYES
Auditor General

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SUMMARY

In 1981 and 1983, the Auditor General reported on the Department of Health Services' (department) progress in managing the State's program to control hazardous waste. Since our last report, the department has improved its efforts in some areas. However, the department needs continued improvement in regulating the estimated 2,550 facilities in California that handle hazardous waste.* In fiscal year 1985-86, the department was budgeted approximately \$122 million to regulate these facilities. In May 1986, the department proposed budget augmentations to the fiscal year 1986-87 budget for an additional 148.6 staff and approximately \$13.3 million to substantially increase the State's financial and staffing commitment to improving its hazardous waste management program.

Since 1983, the department has made the following improvements in managing the State's hazardous waste program:

- The department has issued more permits to hazardous waste facilities. Between 1978 and October 1983, the department had issued only 63 permits. As of March 31, 1986, the department had issued 244 permits to hazardous waste facilities in California. The department estimates that over 600 facilities need permits.
- The department has exceeded established goals for the number of facility inspections to be done during each of the three most recent fiscal years.

*There are varying estimates of the number of hazardous waste facilities operating in California. The estimate of 2,550 is based on figures reported in a budget change proposal recently prepared by the department.

- The department has encumbered about \$31.4 million of the \$36.6 million available Superfund monies in fiscal years 1983-84, 1984-85, and 1985-86 to clean up toxic waste sites.

The department still has the following problems and needs continued improvement to overcome them:

- While the department has exceeded its annual inspection goals, inspections are made primarily of the major facilities. It is possible that the department is not inspecting nonmajor facilities for long periods of time.
- The department's enforcement program is weak. While the department frequently identifies violations during its inspections, it does not always follow up on these violations and enforce regulations.
- The department does not collect all fines that have been levied against violators.
- The department has not used its manifest tracking system, which is designed to track shipments of toxics, to identify indications of illegal dumping.
- While the department has encumbered Superfund monies, problems both within and beyond the department's control have delayed the actual spending of these funds to clean up hazardous waste sites.

The department's chief deputy director of the Toxic Substances Control Division agrees that while progress has been made in improving the State's toxic management program, continued improvement is needed. He stated that progress is hindered by inadequate procedures and controls and difficulties in recruiting and hiring capable staff to fully administer the program.

Regulatory Program

Our 1981 and 1983 reports were critical of the department for not issuing enough permits; our 1981 report was also critical of the department for not conducting enough inspections. Since that time, the department has improved its performance in issuing permits and conducting inspections. Between 1978 and October 1983, the department issued only 63 permits. Since our 1983 report, the department has increased the number of permits it issued to 244.

Additionally, the department is exceeding the goals it establishes for inspecting facilities that handle hazardous waste. In fiscal year 1984-85, the department planned to conduct 875 inspections of facilities that treat, store, or dispose of hazardous waste; it actually conducted 1,314 inspections of these facilities. However, not all of these are inspections of separate facilities. We determined that the approximately 1,000 inspections that the department conducted in calendar year 1985 represented fewer than 580 separate facilities. Therefore, it is possible that the department is not inspecting many of the nonmajor facilities for long periods of time. Because of the way the department keeps its records, we could not determine the number of facilities not inspected regularly or the number that had never been inspected.

Additionally, the department does not always follow up on violations of hazardous waste control laws or take enforcement action against the violators. The department did not follow up on 22 (24 percent) of the 92 violations it discovered to determine whether the violation was corrected. Further, the department took formal enforcement action in only 77 (31 percent) of the 250 cases of Class 1 violations, which the department considers serious violations. In 59 (24 percent) of these Class 1 violations, department records did not indicate that the department took any enforcement action or even notified the facility to correct the violation. For example, in

December 1985, the department discovered 7 Class 1 violations at a facility. However, as of April 1986, the department had not formally notified the facility to correct these violations.

The department also does not collect all fines and penalties that facilities are assessed for violations. The department does not have a system to identify assessments, receipts, or amounts outstanding from violators. Additionally, even when the department is aware that it is due monies from fines and penalties, the department has not collected all that it is due. We calculated that through March 10, 1986, of fiscal year 1985-86, at least an additional \$98,688 should have been sent to the department for the activities of local health officers.

The department still cannot use its Hazardous Waste Shipping Manifest System to identify possible illegal disposal of hazardous waste. The system is supposed to produce a 60-day report of unmatched manifests that the department can investigate to determine if illegal disposal has occurred. Because the system does not screen manifests to eliminate those manifests that, by system design, will not have a match in the system or those that could have lower priority for department attention, the resulting 60-day report of unmatched manifests is so large that it is unmanageable. Consequently, the department no longer even prints a 60-day report. This system, since its inception, has not been usable to identify possible illegal disposal of hazardous waste.

The department also does not have an effective management information system to track its permitting, surveillance, and enforcement activities. For example, because of inconsistent and inaccurate data, we could not use department reports to independently verify the number of permits issued by the department. Further, we could not use department records or reports to confirm the number of inspections conducted in fiscal year 1983-84 or to determine whether all facilities were inspected regularly. The department needs this information to operate an efficient program.

Superfund Program

Since our last report, the department has encumbered more of its Superfund monies but, for reasons both within and beyond the department's control, the department has been slow to spend state Superfund monies. For fiscal years 1983-84, 1984-85, and in fiscal year 1985-86 through December 31, 1985, actual cash expenditures of available state Superfund monies were only \$11.3 million (31 percent) of the \$36.6 million available. Further, from the department's 1983 list of 60 hazardous waste sites that needed to be cleaned up, 48 are still on the department's current list. The list now includes 226 sites that need to be cleaned up.

Corrective Action Taken by Department

The Department of Health Services has developed a corrective action plan and has proposed budget augmentations to the fiscal year 1986-87 budget for an additional 148.6 staff positions and approximately \$13.3 million to improve the State's administration of its hazardous waste management program. The Toxic Substances Control Division was authorized 293 positions and a budget of approximately \$122 million for fiscal year 1985-86. The budget change proposal represents a significant increase in personnel and funds that will be committed to improving the program.

The department's corrective action plan addresses the issues identified in this report, such as the need for reliable management information, activity tracking systems, and enforcement activities. The plan also establishes schedules for implementing the corrective actions. For example, one of the problems discussed in this report and addressed in the plan is the department's lack of policy and procedures to carry out its regulatory responsibilities. As detailed in the plan, the department and the EPA have agreed that an EPA staff person will be temporarily assigned to the department. This person will be responsible for developing policies and procedures to assist the

department in implementing an effective hazardous waste management program. Additionally, the department is creating a program control unit to track and monitor the activities of the Toxic Substances Control Division. The department plans to hire five people to staff this unit.

According to the department, its corrective action plan has been tentatively approved by the Department of Finance and the Governor. More detail on the department's corrective action plan is presented in the department's response to this report. (See page 83.)

INTRODUCTION

The objective of California's hazardous waste management program is to protect the public health and the environment from the harmful effects of toxic waste. The Department of Health Services (department) is responsible for carrying out this objective. The department regulates the generation, treatment, storage, transportation, and disposal of hazardous waste. In addition, the department manages the State's program to clean up hazardous waste sites and to clean up releases or spills of hazardous material that may pose a threat to the public health or the environment.

Legislation

In 1972, the Legislature passed hazardous waste control legislation to establish a program to ensure the safe generation, storage, treatment, and disposal of hazardous waste. The act designated the Department of Health Services to administer the program.

In 1976, the federal government instituted a nationwide program for managing hazardous waste by enacting the Resource Conservation and Recovery Act. This legislation required the federal Environmental Protection Agency (EPA) to develop comprehensive standards for controlling hazardous waste and to implement a national hazardous waste management program. The legislation also allows a state to operate its own hazardous waste management program if the EPA

considers the state program to be substantially equivalent to the federal program. The EPA has authorized California to operate many components of the State's hazardous waste management program in lieu of the federal program. The EPA's primary role is to provide oversight and review of California's program to ensure compliance with federal law.

According to department officials, California's hazardous waste management program has historically been more stringent than the federal government's. For example, California regulates more substances and smaller amounts of substances than the federal government does. Additionally, according to department and EPA officials, California has been a leader in the nation in developing and implementing strategies to control hazardous waste.

In 1980 the federal government enacted the Comprehensive Environmental Response, Compensation, and Liability Act to provide, among other things, funds for state governments and the federal government to use to clean up hazardous waste sites and releases of hazardous material. This act requires that states pay 10 percent, or, in certain circumstances, at least 50 percent, of the cost of cleaning up hazardous waste sites when the cleanup is funded by federal monies.

In response to this legislation, in 1981 California established the Superfund program. The Superfund program provides \$10 million annually to pay for the State's share of cost to clean up

hazardous waste sites and to clean up sites for which funds from the federal program or the responsible parties are not available. Further, in 1984 the Hazardous Substance Cleanup Bond Act was passed, authorizing the sale of \$100 million in bonds to provide funds for the cleanup of hazardous waste.

Program Administration

In 1981, the department created the Toxic Substances Control Division to continue to implement and enforce the California hazardous waste management program. The division, which has its headquarters in Sacramento, has regional offices in Berkeley, Los Angeles, and Sacramento and a branch office in Fresno. The headquarters provides centralized coordination in developing policy and regulation, providing technical review and support, managing Superfund account and bond funds, and implementing statewide programs. The division conducts its field inspection and enforcement activities out of the regional and branch offices. In fiscal year 1985-86, the division was authorized 293 positions and a budget of approximately \$122 million.

Most of the funding for the department's hazardous waste management program comes from fees collected from operators of hazardous waste disposal facilities, from haulers of hazardous waste, and from taxes collected from facilities that generate hazardous waste. In addition, the federal government provides monies to support the program, and bond monies are available for site cleanup.

Regulatory Program

The department regulates the handling of hazardous waste by issuing permits to facilities that handle hazardous waste. Facilities in operation when the hazardous waste management program began and facilities that have since begun operating are required to apply to the department for operating permits. The department also registers haulers of hazardous waste and monitors the transportation of this material.

The department also regulates the handling of hazardous waste by inspecting hazardous waste facilities and investigating reports of improper or illegal activities. When the department discovers violations, it notifies the facility and orders the facility to take corrective action. The department may apply administrative sanctions by suspending or revoking a facility's permit or a hauler's registration. The department may also take legal action against violators and may request civil and criminal penalties. These regulatory and enforcement options are intended to upgrade the operations of hazardous waste facilities and waste haulers and to ensure compliance with safety standards.

Superfund Program

The department is also responsible for administering the Superfund program for cleaning up hazardous waste sites and releases of

hazardous material that pose a threat to public health or the environment. In some instances, the cleanup of hazardous waste sites is conducted by the responsible party with the department providing oversight. These cleanups may be voluntary or the result of enforcement action taken by the department. In many instances, federal or state funds are needed to clean up a site. These federal and state funds may be used together or separately to clean up a site. If a responsible party can be identified, cleanup costs may be recovered by the state and federal governments.

In carrying out its responsibilities to clean up hazardous waste sites, the department ranks sites on one of three lists. One list includes sites which the responsible party is voluntarily cleaning up and for which the department is providing only oversight and guidance. A second list ranks sites that the department has not fully assessed. For some of these sites, the department has identified the responsible party but that party has not complied with cleanup orders. For other sites, the department has been unable to identify a responsible party. A third list ranks sites that the department has assessed. However, the responsible party for these sites either has not been identified or has not complied with cleanup orders. Sites are ranked according to the degree of risk they pose to the public or the environment and according to the cost-benefit of cleanup. State law requires the department to spend monies to clean up hazardous waste sites in the order of the sites' position on the ranked lists.

Previous Auditor General Reports
on California's Hazardous
Waste Management Program

Since 1981, the Auditor General has issued seven reports on the State's hazardous waste management program.* Two of these reports dealt specifically with the issues addressed in this report. (Appendix A presents a summary of our two previous reports on the issues discussed in this report. Appendix B discusses the department's efforts to implement the Auditor General's previous recommendations pertaining to the issues discussed in this report.)

In October 1981, the Auditor General reported on the department's efforts to issue permits to hazardous waste sites, to enforce hazardous waste control laws, and to control the transportation of hazardous waste. The report concluded that, as a result of weaknesses identified in each of the areas, neither the public nor the environment was sufficiently protected from the harmful effects of hazardous waste. (This report is entitled "California's Hazardous Waste Management Program Does Not Fully Protect the Public From the Harmful Effects of Hazardous Waste," Report P-053.)

*In addition to the two reports that previously dealt with the issues discussed in this report, since 1981, the Auditor General has issued the following five reports on the department's hazardous waste management program: P-244, "Review of Selected Contracts for the Cleanup of the Stringfellow Toxic Waste Disposal Site," October 1983; P-244.1, "Contracts for Cleanup of the Stringfellow Toxic Waste Disposal Site: Follow-Up Information," June 1984; P-343.1, "Department of Health Services' Superfund Program: Follow-Up Information," January 1984; P-565, "The Department of Health Services' Involvement in the Cleanup of Hazardous Waste Sites," August 1985; and P-582.1, "The Department of Health Services Needs Better Control of Hazardous Waste Contracts," March 1986.

In November 1983, the Auditor General issued a follow-up report to the 1981 report on the State's hazardous waste program. This report concluded that the department had been slow in implementing legislative requirements to issue permits to facilities that handle hazardous waste, to enforce hazardous waste laws, and to monitor the transportation of hazardous waste. This report is entitled "The State's Hazardous Waste Management Program: Some Improvement But More Needs To Be Done," Report P-343.)

SCOPE AND METHODOLOGY

The objective of this audit was to assess the department's progress in regulating the State's hazardous waste program and in managing the state Superfund program. We reviewed the department's performance in issuing permits to hazardous waste facilities, inspecting those facilities, enforcing laws and regulations, and tracking and recording the movement of hazardous waste.

In conducting this audit, we interviewed personnel of the department's Toxic Substances Control Division and reviewed records at the division's headquarters and at each of the regional and branch offices. We also interviewed personnel of the federal Environmental Protection Agency.

To accomplish our objectives, we reviewed 93 permit files out of an estimated 244 files for facilities with permits. In addition, we

reviewed reports of inspections conducted for 117 facilities out of the approximately 1,000 inspections conducted each year. We also analyzed data from all of the monthly summaries of compliance and monitoring reports submitted by the regions during 1985. This analysis included reviewing 250 Class 1 violations and over 1,000 inspections. To test the manifest system, we reviewed 106 manifests out of an estimated 400,000 received each year. Additionally, we reviewed records of all revenue received from fines and penalties during fiscal year 1985-86 through March 10. Finally, we verified all of the expenditures of Superfund monies for specific sites through December 31, 1985.

AUDIT RESULTS

I

CALIFORNIA'S PROGRAM TO REGULATE HAZARDOUS WASTE FACILITIES NEEDS CONTINUED IMPROVEMENT

The Department of Health Services (department) has improved its program to regulate hazardous waste since our audits in 1981 and 1983; however, further improvement is needed. Since 1983, the department has increased the number of permits that it issues to facilities that treat, store, or dispose of hazardous waste. The department is also exceeding its goals for inspecting facilities. However, the department needs more improvement in enforcing its regulations, collecting fines, tracking the shipments of toxics, and maintaining viable information about its regulatory efforts.

Facilities that treat, store, or dispose of hazardous waste in California are regulated by the State and by the federal government. The California Health and Safety Code requires the department to establish a regulatory program that satisfies state laws and regulations. In addition, federal law requires a program to manage hazardous waste. Under annual agreements with the federal Environmental Protection Agency (EPA), California agrees to accomplish specified objectives to satisfy federal requirements.

The Department Has Improved
Its Permit Program

The California Health and Safety Code requires the department to issue operating permits to facilities that store, treat, or dispose of hazardous waste. The goal of the permit program is to protect the public and the environment by upgrading and controlling the operations of hazardous waste facilities. The program also enables the department to enforce applicable laws and regulations by suspending or revoking permits. In 1981 and 1983, the Auditor General was critical of the department for issuing few permits to hazardous waste facilities. Since our last report, the department has improved its performance in issuing permits.

Issuing permits to hazardous waste facilities plays an important role in ensuring that facilities conform to state laws and to the department's standards. By issuing a permit, the department can prohibit facilities from accepting certain types of waste, specify schedules for inspecting waste storage and treatment equipment, and specify instructions for containing spills of hazardous waste. In addition to improving operating practices, issuing permits to hazardous waste facilities enhances the department's ability to enforce continued compliance with laws and regulations, since the department can revoke or suspend a facility's permit. When a facility's permit is suspended or revoked, the facility must cease the operation for which the permit was granted.

To receive a permit, a facility operator must complete a detailed application and submit a plan describing operating procedures, the characteristics of the waste, and provisions for its safe handling. The department then reviews the plan. If the plan is acceptable and if the department's inspection of the site confirms that the facility operations conform to regulatory standards, the department issues a permit. The permit may also contain individual compliance requirements tailored to a particular facility.

In addition, the department is authorized to issue interim status documents to facilities that have applied for a permit. The interim status documents establish general compliance conditions for the safe operation of the facility pending the issuance of the final permit; however, interim status documents do not require the facilities to submit a detailed plan of operation and do not require the department to make an on-site inspection. The department estimates that, since 1981, it has issued approximately 1,000 interim status documents. However, in February 1985, state regulations became effective that granted interim status to all facilities that had applied for a permit by November 19, 1980. As a result, according to the chief of the headquarters permitting unit, the department rarely issues interim status documents anymore. According to the chief, the department issued two interim status documents in fiscal year 1984-85 and, as of April 16, 1986, had issued none in fiscal year 1985-86.

Our previous reports on the department's permit program have been critical. Between 1978 and October 1981, the department issued only 18 permits to the estimated 1,200 hazardous waste facilities requiring permits. Between October 1981 and October 1983, the department issued only an additional 45 permits. Since that time, however, the department has improved its permit program. For example, the department developed written procedures and workload standards for issuing permits. The department also increased its staff assigned to work on permits from 21 in 1983 to 75 in 1986. Furthermore, the department implemented an annual workplan that sets specific objectives for issuing permits. As a result of implementing these changes, the department has significantly increased the number of permits that it has issued. According to department statistics, as of March 31, 1986, the department had issued a total of 244 permits. Additionally, according to a 1985 assessment by the EPA, "the State staff has done a good job of writing quality permits."

The following table shows the department's annual goals and accomplishments since fiscal year 1983-84 for both the state and the federal programs. The goals and accomplishments for the federal program are a subset of the goals and accomplishments for the state program.

TABLE 1
PERMIT GOALS AND ACCOMPLISHMENTS

<u>Fiscal Year</u>	<u>State Program</u>		<u>Federal Program</u>	
	<u>Goals</u>	<u>Accomplishments</u>	<u>Goals</u>	<u>Accomplishments</u>
1983-84	95	75	50 ^{a/}	48 ^{a/}
1984-85	110	111	50	52 ^{b/}
1985-86	55 ^{c/}	40 ^{c/}	1 ^{d/}	0

^{a/} This goal and accomplishment are for the nine-month period, October 1, 1983, through June 30, 1984.

^{b/} Although the department reports 52 permits issued, the EPA is crediting the department with only 46 permits issued during this period.

^{c/} This is the goal and accomplishment through March 31, 1986. The year-end goal is to issue 82 permits.

^{d/} The federal goal for this year is to issue only one incinerator permit because the EPA has decided to focus on issuing permits to land disposal and incinerator facilities. These types of permits take longer to process.

Although the department fell short of its third quarter goal for issuing permits in fiscal year 1985-86, the chief of the headquarters permitting unit believes that it is still possible for the department to meet its annual 1985-86 goal of issuing 82 permits because a number of permits are being processed, and the department can redirect resources to meet the goal. One factor that can slow the department's progress in issuing permits is the inability of some facilities to meet all of the permitting requirements. According to the chief of the headquarters permitting unit, a number of facilities

are having difficulty meeting the State's requirement that they obtain financial liability coverage in the event that contamination occurs. According to department staff, as of March 31, 1986, the department was ready to approve 20 permits but was waiting for the facilities to meet the financial responsibility requirement.

The numbers that we report as permits issued are those reported by the headquarters permitting unit. We could not independently verify the number of permits issued because various units within the department have published conflicting data, and we could not completely verify any of the figures reported. For instance, in one document we reviewed, on different pages the department reported 101, 107, or 111 permits issued in fiscal year 1984-85. Additionally, the numbers reported by the three regions do not agree with the numbers reported by the headquarters office. Because of the way the regions and the headquarters maintain their files and records, we could not determine the total number of facilities permitted. However, we could agree, within 10 permits, with the total of 244 reported by the headquarters permitting unit. The EPA has also been critical of the department's reporting and recordkeeping systems.

In addition to setting annual goals for issuing permits, in 1983 the department developed a five-year plan to issue permits to all existing facilities that need them by 1988. The following table shows the department's timetable for meeting that goal and its estimate of the number of facilities that will need permits.

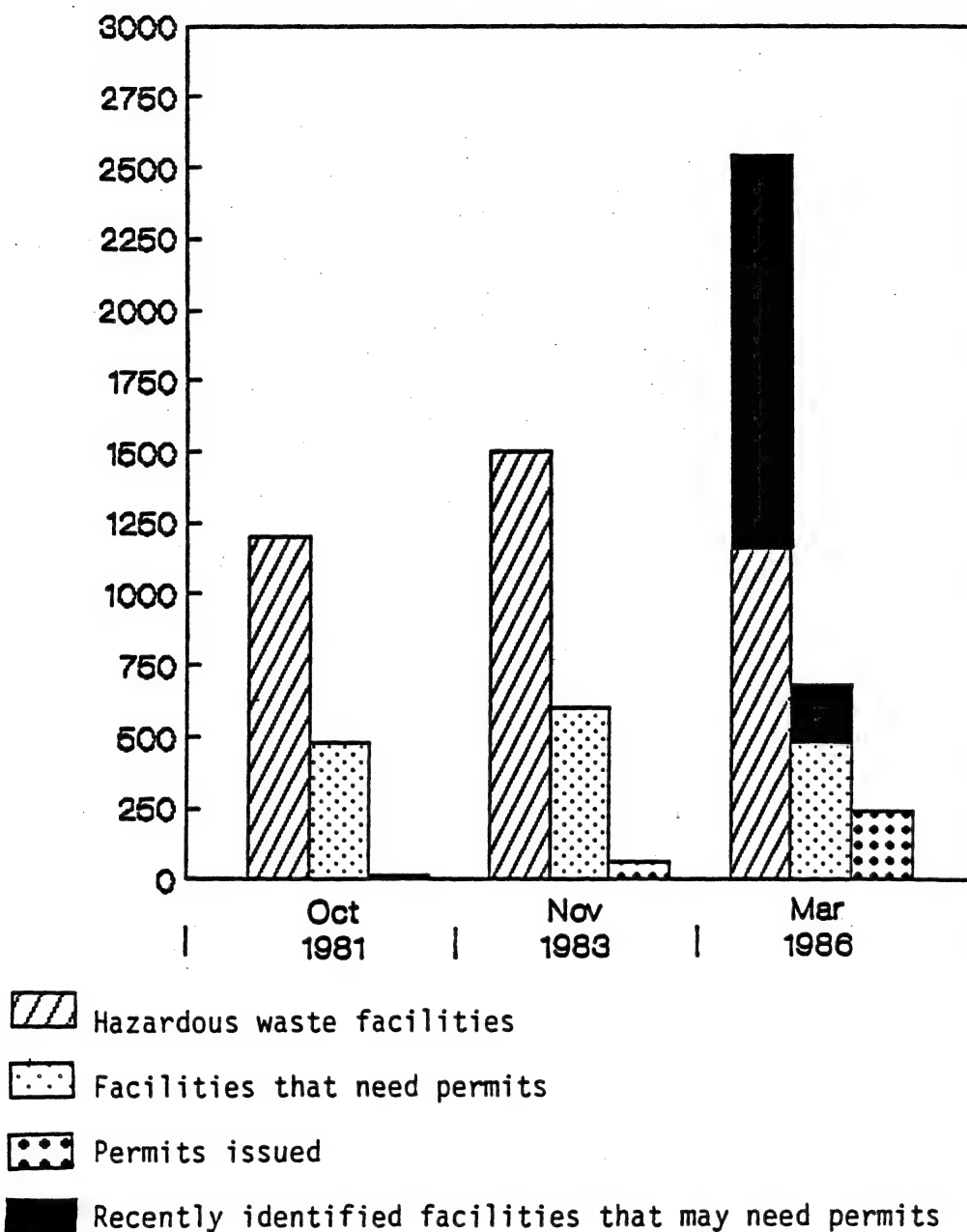
TABLE 2
FIVE-YEAR PERMITTING PLAN

<u>Fiscal Year</u>	<u>Permits To Be Issued</u>
1982-83 and 1983-84	75
1984-85	111
1985-86	82
1986-87	99
1987-88	<u>115</u>
Total	<u>482</u>

The timetable above is based on the department's estimate in 1983 that 482 of the estimated 1,157 facilities needed permits. Given the department's existing staffing levels and workload standards, the department could issue the 482 permits by 1988. However, since 1983, the department has become aware of more facilities that may need permits. The department recently identified approximately 240 recycling facilities that need to be reviewed for permits and approximately 1,150 hazardous waste storage facilities that need permit determinations. To handle the permitting process for the newly identified facilities, the department submitted a budget change proposal for fiscal year 1986-87 requesting additional staff positions.

Figure 1 illustrates the department's progress in issuing permits in relation to the estimated number of hazardous waste facilities for each of our review periods.

FIGURE 1
HAZARDOUS WASTE FACILITIES
WITH AND WITHOUT PERMITS



Source: Department estimates of the number of hazardous waste facilities and of the number of facilities that will need permits. According to the chief of the headquarters permitting unit, it is likely that these estimates will change as the department does additional survey work on the newly identified facilities.

The Department Has Exceeded
Its Goals for Conducting Inspections

To ensure that the public and the environment are protected from the improper handling of hazardous waste, the department's regional office staff inspect hazardous waste facilities that generate, treat, store, or dispose of hazardous waste to determine if the facilities are complying with regulations. Since fiscal year 1983-84, the department has exceeded the annual goals it has set for inspecting facilities. However, it is possible that the department is not inspecting the smaller facilities for long periods of time.

In 1981, the Auditor General reported that the department lacked an effective routine inspection program to assess compliance and to identify and correct violations before they became serious problems. At that time, the department had inspected fewer than 15 percent of the State's hazardous waste facilities. Our 1983 report noted improvement in the department's inspection program. We reported that in fiscal year 1982-83, the department met its goal of inspecting 400 facilities that treat, store, or dispose of hazardous waste and that it also inspected approximately 420 facilities that generate hazardous waste.

Since our 1983 report, the department has exceeded most of the goals that it has set for conducting inspections required by both the state and federal programs. In addition, since fiscal year 1982-83, the department has increased its inspection and enforcement staff from 42 positions to 87 positions. Table 3 shows the department's goals and

accomplishments for both the state and the federal programs for fiscal years 1983-84, 1984-85, and 1985-86 through March 31, 1986.

TABLE 3
INSPECTION GOALS AND ACCOMPLISHMENTS

<u>Fiscal Year</u>	<u>State Program</u>		<u>Federal Program</u>	
	<u>Goals</u>	<u>Accomplishments</u>	<u>Goals</u>	<u>Accomplishments</u>
1983-84 ^{a/}	500	639	405	565
1984-85	875	1,314	277	987
1985-86 ^{b/}	770	778	254	591

^{a/} We could not verify the number of inspections conducted during fiscal year 1983-84 because of the poor condition of the records at both the headquarters and regional offices. However, our tests confirmed that the department accurately reported the number of inspections conducted in fiscal years 1984-85 and 1985-86.

^{b/} This is the annual goal. The accomplishment is through the nine-month period ending March 31, 1986.

In addition, for fiscal years 1983-84, 1984-85, and 1985-86 (through March 31, 1986), the department reported that it inspected 2,839 generators of hazardous waste and 799 hazardous waste transporters. The department has also entered into agreements with 12 counties to have the counties inspect facilities that generate hazardous waste. Not all of these counties report to the department the number of inspections that they conduct.

Although the department is exceeding its goals for inspecting facilities, it is possible that the department is not inspecting many of the smaller facilities for long periods. The department does not have written policy regarding the frequency of inspections for those facilities regulated by the state program only. Regional chiefs of the surveillance and enforcement units stated that the major facilities should be inspected every year but did not cite a standard regarding the frequency of inspections for nonmajor facilities regulated only by the State. Because of the undefined policy regarding these nonmajor facilities, it is possible that the department is not inspecting many of these facilities for long periods. If it does not inspect facilities regularly, the department cannot be sure that the facilities are complying with laws and regulations, and it loses the opportunity to correct a violation before it becomes a more serious problem.

The department reported conducting approximately 1,000 inspections during calendar year 1985. However, we determined that these 1,000 inspections represented fewer than 580 separate facilities, since many facilities were inspected a number of times. Further, of these 1,000 inspections, only 521 were "full facility" inspections. The department counts a number of activities as inspections, including on-site record reviews and partial inspections such as reviews of ground water monitoring systems.

Because of the manner in which headquarters and the regions keep their records, we could not determine the number of facilities

that had not been inspected regularly or that had never been inspected. At least one region reported that it did not have a system to ensure that nonmajor facilities were inspected regularly or to ensure that department staff rotated the nonmajor facilities they inspected.

Because the department does not have a clear policy for inspecting those facilities regulated only by the State, and because the regions do not all have a system to ensure that they rotate inspections among nonmajor facilities, many of these facilities could go without inspection for long periods. In addition, regional chiefs of the surveillance and enforcement units stated that they do not inspect facilities regularly because their staffs do not have the time to inspect each facility regularly. Instead, they focus on regular inspections of major facilities and on known violators.

Complaints Are Not Always Investigated Promptly

Another way in which the department discovers violations is through complaints received from the public. However, we found instances in which the department did not promptly investigate complaints from the public about suspected illegal dumping of hazardous wastes. For example, the Fresno office, a branch of the Sacramento regional office, received complaints for investigation that were up to 12 months old. If complaints are not investigated promptly, there is less likelihood that actual cases of dumping may be discovered, and the potential for endangering public health and the environment increases.

The public may report complaints of suspected dumping of hazardous wastes to the department on a toll free "Waste Alert Hotline." The calls are received and recorded at the headquarters office, and then copies of the complaints are sent to the regional offices for investigation. We reviewed a random sample of 44 calls made to the Waste Alert Hotline between January 1985 and January 1986 and found that it took an average of approximately 11 days for headquarters to send the complaints to the offices in whose regions the incidents were alleged to have occurred. However, we also found that the Sacramento regional office did not forward some complaints to its Fresno branch office until up to 12 months after the complaints were made.

Between February 1985 and August 1985, headquarters received eight complaints that the Sacramento office did not send to the Fresno office until January 29, 1986. In one instance, a complainant reported the dumping of oil field wastes in a canal. The complainant stated that the canal is a source of drinking water. The complaint was called in on August 21, 1985; it was not received at the Fresno office until January 29, 1986. In another instance, a complainant alleged that a truck carrying an unknown type of hazardous waste had been abandoned. This complaint was called in on August 23, 1985, and also was not referred to the Fresno office until January 29, 1986.

The department does not have established policy or procedure for sending referrals from the Sacramento regional office to its branch

office in Fresno. According to an office clerk who is in charge of recording the Waste Alert Hotline calls at headquarters, the method of referral depends on the urgency of the complaint. Sometimes complaints are referred directly to the Fresno office; at other times complaints are first sent to the Sacramento office for later referral to the Fresno office.

We could not determine why the Sacramento regional office had not promptly referred the complaints to the Fresno office. The waste management specialist who assumed the responsibility of maintaining the complaint log in January 1986 located the old complaints when she was reorganizing the complaint log. Since there was no indication that these complaints had been sent, she forwarded them to the Fresno office as a precaution. She stated that she believed headquarters referred all complaints received on the Waste Alert Hotline that are in the Fresno office's jurisdiction to both the Fresno and the Sacramento offices. The backlog of unprocessed complaints may have occurred because of the headquarters' procedure of sometimes referring complaints directly to the Fresno office and sometimes referring them through the Sacramento regional office.

The Waste Alert Hotline was designed to allow the public to participate in the department's efforts to control illegal hazardous waste treatment, storage, and disposal activities. By unnecessarily delaying the investigation of such complaints, the department not only jeopardizes the discovery of actual instances of illegal dumping but

also increases the potential for endangering public health and the environment.

The Department Does Not Always
Follow Up on Violations Discovered

When the department determines that a facility is violating hazardous waste control laws, it attempts to resolve the violation by requiring the facility to take corrective action. The department's policy is to issue formal written notices ordering the facility to correct the violation and to notify the State when the violation has been corrected. Further, according to policy, the department should reinspect the facility to ensure that the correction has been made. However, the department does not always follow up on violations to ensure that correction has been accomplished. Both our 1981 and 1983 reports criticized the department for not following up on violations.

At the regional offices, we reviewed reports of inspections conducted at 117 facilities between July 1, 1983, and December 31, 1985. According to the reports, 92 of these inspections revealed violations. The department followed up on 70 of these 92 violations. For 22 of these violations (24 percent), however, there was no evidence that the department had followed up to determine whether the violation had been corrected. To determine whether follow up had been conducted, we reviewed the facility's case file for evidence of followup, such as correspondence with the facility or a reinspection report. When the file did not reveal evidence of

followup, we interviewed regional office staff to determine whether any followup had been conducted.

Although some of these violations that were not followed up on appeared to be minor infractions, others appeared to be more serious. One serious infraction involved a facility that treated cyanide wastes and stored the waste containers on an unpaved area. The inspection report indicated that this method of storage could pose a threat to the environment by contaminating groundwater. Although this violation was discovered in February 1985, as of March 1986, over one year later, there was no indication that the department had followed up to determine whether the violation had been corrected.

According to some of the regional chiefs of the surveillance and enforcement units, the regional offices do not have sufficient staff to ensure that all violators take corrective action since the department gives priority to inspecting major facilities. However, regardless of whether additional staffing is needed, the department does not have an effective system for tracking all violations it discovers or for tracking the status of corrective action. Consequently, some of the regions have recently developed their own tracking systems. One region reported that it is testing a system to track violations discovered at major facilities. However, it does not appear that its system will indicate whether the violation was corrected. The EPA has also been critical of the department for not having a formal system for tracking violations.

The Department Does Not Always
Pursue Formal Enforcement Actions

The department does not always pursue appropriate formal enforcement actions when it discovers a violation. The department may enforce its regulations in a number of ways. For every violation, the department's policy is to notify the facility in writing to correct the violation by a specified date. However, for some violations, the department may also impose administrative sanctions and seek civil and criminal penalties against violators. Both our 1981 and 1983 reports criticized the department for not taking all enforcement actions available to it.

In September 1983, the department initiated new efforts to more aggressively pursue violators of hazardous waste laws by establishing the Hazardous Waste Enforcement Unit to ensure that proper enforcement actions are taken. The function of this office is to improve liaison with local prosecutors, and recommend statutory changes to increase the capability of city and district attorneys to prosecute violators of hazardous waste laws.

Since our 1981 and 1983 reports, the department has increased the number of cases that it refers for legal action. Between October 1981 and September 1983, the department referred 37 cases for legal action. According to the department's statistics, the department referred 30 cases for prosecution in fiscal year 1983-84, 105 cases in fiscal year 1984-85, and 39 cases as of January 31, 1986, in fiscal

year 1985-86. We could verify the department's statistics only for fiscal year 1985-86 because the department's file documentation was incomplete for the prior years. For fiscal years 1983-84 and 1984-85, department headquarters either did not have all of the enforcement referral files or data was missing from the files.

However, the department still does not always pursue appropriate formal enforcement actions. According to the coordinator of the enforcement unit and the chief of the hazardous waste management section, whenever a violation is discovered, the department should notify the facility in writing, usually through a Notice of Violation, to correct the violation by a specific date. Further, for violations that result in a release or serious threat of release of hazardous waste to the environment, categorized as Class 1 violations, the department's policy is not only to send a Notice of Violation to the facility but also to initiate formal enforcement procedures. These procedures include formal written orders from the department, letters of settlement, and referrals to district attorneys or the Attorney General for civil or criminal penalties.

Of the 250 Class 1 violations we reviewed, which were identified during calendar year 1985, the department took formal enforcement action against only 77 (31 percent) of the violators. The department either referred the cases for civil or criminal prosecution or issued a director's order or administrative order. However, for 78 (31 percent) of the cases with Class 1 violations, there was no

evidence that the department took any action beyond sending the Notice of Violation, which, according to department policy, is an informal enforcement action and is not a strong enough response to a Class 1 violation. Further, for 36 (14 percent) of these Class 1 violations, the department did not even send a Notice of Violation but rather handled the violation through "informal warnings" to the facility. For 59 (24 percent) of the violations, department records did not indicate that the department took any action at all.

The following figures illustrate the enforcement actions taken by the department in the cases we reviewed. Figure 2 shows the number of Class 1 violations identified by each of the three regional offices and the number of cases for which the regional offices took formal enforcement actions. Figure 3 shows the other types of actions taken by the regional offices in response to Class 1 violations.

FIGURE 2

**CLASS 1 VIOLATIONS AND FORMAL ENFORCEMENT ACTIONS
JANUARY 1985 - DECEMBER 1985**

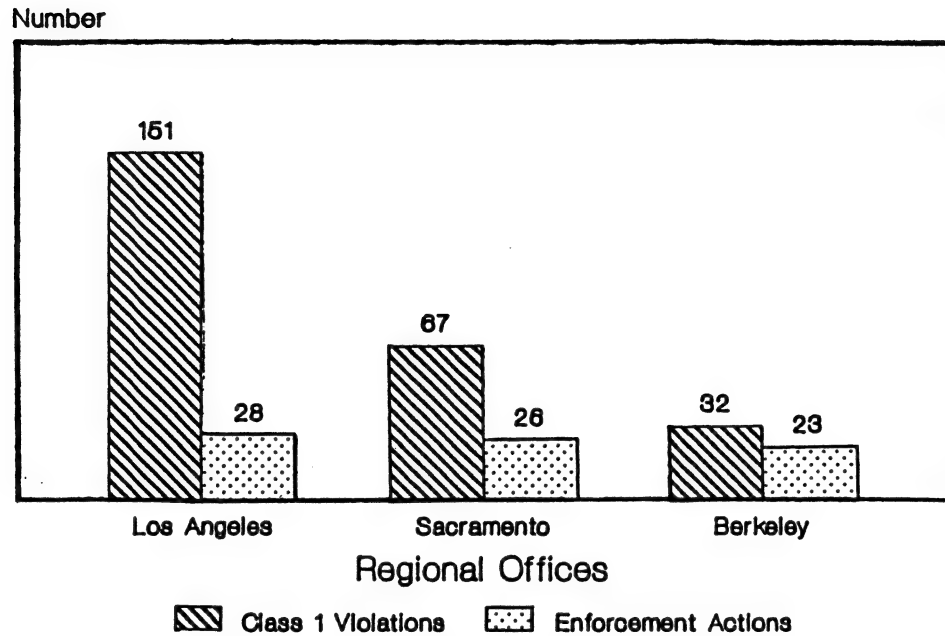
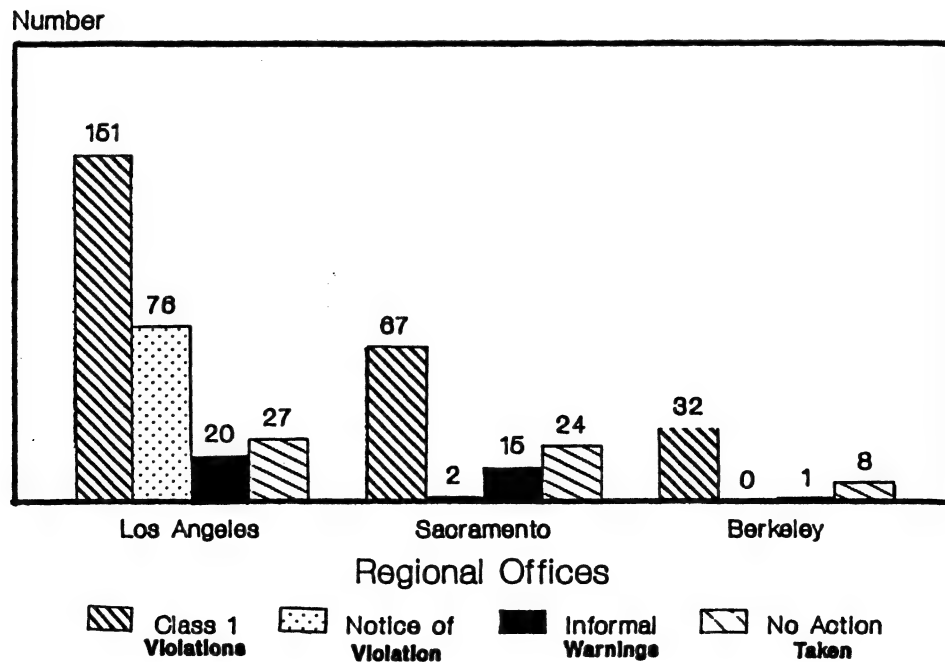


FIGURE 3

**CLASS 1 VIOLATIONS AND OTHER ACTIONS
JANUARY 1985 - DECEMBER 1985**



When the department does not pursue available enforcement actions, it fails to meet its commitment to develop a vigorous enforcement program, to reduce incentives for noncompliance, and to fully protect the public and the environment. In addition, when it does not notify a facility in writing about violations, the department not only does not follow policy, it fails to provide documentation of a facility's noncompliance for future reference. For example, in August 1984 the department discovered a crack in a hazardous waste drum storage pad at a facility. Regional staff orally briefed the facility representatives on their findings but did not issue a written notice to correct the violation. In December 1985, the department revisited the facility and this time discovered seven Class 1 violations and nine Class 2 violations. However, regional staff again orally briefed the facility representatives but did not issue a written notification to correct the violations. In January 1986, the department again visited the facility and found an additional Class 2 violation. However, as of April 1986, one year and eight months after the original violation was discovered, the department still had not formally notified the facility in writing to correct the violation.

Further, written notification provides a means of clear direction for all parties involved. For example, one facility reported that during an inspection, a department inspector made several negative comments that the president of the facility understood to concern deficiencies in its operations. The facility reported that it spent over \$20,000 to correct the suspected deficiencies. Over four months

after the inspection, the department issued a formal order for the facility to correct violations, but according to the facility's president, the inspector's comments were not included in the list of deficiencies. Consequently, the president of the facility concluded that the facility may have unnecessarily spent time and money in correcting suspected deficiencies that may never have existed.

Two of the four chiefs of the surveillance and enforcement units in the regional and branch offices state that they do not always have the time to ensure that formal enforcement actions are taken because staff have been concentrating on inspecting major facilities and following up on problem cases. In addition, the regions do not effectively track the status of enforcement actions. Because there is no tracking system, in at least one region, a reviewer would have to look through all facility files to identify the enforcement actions taken.

The Department Needs To Improve Its Collection of Fines and Penalties

The department does not collect all fines and penalties assessed for violations of hazardous waste laws. In addition, the department's enforcement unit could not provide an accurate, verifiable list of either the fines and penalties assessed or of the collections of those fines. In those instances when the department can determine that violators should be paying the department for assessed fines, the department is not collecting all fines due. Finally, during fiscal

year 1983-84, the department incorrectly deposited revenues from fines into a revenue account for hazardous waste haulers fees. As a result, the department's accounting records show no revenues from fines for fiscal year 1983-84.

The California Health and Safety Code stipulates that the department is to receive a portion of the fines and penalties assessed for violations of hazardous waste control laws. To ensure that it receives the full amounts due in fines and penalties, the department needs to know when the courts impose assessments and the full amount of the assessments imposed. In addition, the department needs to have a system to keep track of payments received and amounts outstanding.

According to the coordinator of the enforcement unit, almost \$14.8 million in fines and penalties has been assessed against violators since January 3, 1983. This amount includes civil and criminal penalties; reimbursement of investigative, prosecutive, and oversight expenses; costs of clean up; and restitution. According to the enforcement coordinator, although almost \$14.8 million has been assessed, not all of that amount is due to the State. The major portions due the State are for cleanup costs.

The Department Does Not Have
a System To Track Fines

The department does not have a system to track enforcement cases to determine if the department has been awarded fines and

penalties it is due. While the department has increased the number of cases referred for prosecution, the department could not provide accurate information on the amounts assessed in fines and penalties, the department's share of those assessments, and the amounts actually collected by the department. According to the department's enforcement coordinator, many of the cases are prosecuted by local district attorneys. Because the department does not have the authority to require the district attorneys to report the results of cases, the department does not always know when it is awarded assessments.

The department also does not keep summary records listing individual receipts or outstanding assessments. Consequently, the department cannot always determine whether violators have made full payment of amounts due. For example, in a memo dated August 15, 1984, the department indicated that outstanding payments were still due from three facilities that were fined. One facility owed the department \$50,000. However, the department could not provide information to show that the department ever received from the facilities the outstanding amounts identified in the memo. Neither the accounting section nor the program staff in the Toxic Substances Control Division maintains a system to identify accounts receivable from violators of hazardous waste control laws. As a result, the department cannot determine if all fines and penalties assessed have been received and, therefore, cannot collect outstanding amounts.

The Department Is Not
Consistent in Collecting Fines

Even when the department is aware that it is due monies that facilities were assessed for violations of hazardous waste laws, the department has not collected all amounts it is due. Although the department received \$479,671 during the first seven months of fiscal year 1985-86, we calculated that at least an additional \$98,688 should have been sent to the department for the activities of local health officers.

Section 25192 of the Health and Safety Code specifies that amounts collected for civil and criminal violations of the hazardous waste laws be allocated in the following way: 50 percent to the State for deposit in the Hazardous Waste Control Account in the General Fund; 25 percent to the city attorney, district attorney, or Attorney General who brought the action; and 25 percent to the department to fund the activity of local health officers to enforce hazardous waste laws. The department maintains that it should be receiving both the 50 percent share for the Hazardous Waste Control Account and the 25 percent share for local health officers, which the department will then distribute to the local agencies.

To assess whether the department has received all amounts it is due, we reviewed records of 21 fines the department received during fiscal year 1985-86 through March 10, 1986, including copies of court judgments and settlement statements. For 7 of the receipts we

reviewed, totalling \$18,213, the department did not have sufficient documentation for us to determine whether the department received the correct apportionment. For example, in three payments from one district attorney, the district attorney merely stated in a letter that the amount of the payments reflected the amounts due to the department. He did not identify the total fine involved or specify whether the payment included both the department's 50 percent share and the 25 percent share for local health officers. According to the enforcement coordinator, the department cannot require the district attorneys to submit copies of court judgments or settlement statements along with the payments. As a result, according to the coordinator, the department sometimes relies on the referring prosecuting attorney to pay the department the correct amounts.

The remaining 14 receipts showed that the department received three payments for assessments not subject to allocation requirements under Section 25192. The 11 other receipts indicated that the department received correct payments in only 6 of the 11 payments. In the remaining 5 payments, the department received only its 50 percent of the total assessed fines and not the 25 percent intended for the local health officers. In 2 of the payments, for example, the referring district attorney specified that the department received 50 percent of the total fine and that the 25 percent share for local health officers was awarded directly to the county's health department. We calculated that at least \$98,688 should have been sent to the department for the activities of local health officers.

The department was unaware of the inconsistencies in payments of fines and penalties for violations of the hazardous waste laws because it does not have a system to determine that correct amounts have been paid. The program analyst responsible for receiving revenues from fines stated that she does not always receive the court judgments and settlement statements and that she does not regularly review the documents that she does get to determine if correct payments have been made.

The Department Did Not
Deposit Fines in the Appropriate
Subaccount During Fiscal Year 1983-84

Section 25192 of the Health and Safety Code requires the department to deposit revenue from fines in the Hazardous Waste Control Account, and the department's accounting office established a subaccount for these revenues. However, the accounting office records show no deposits of revenue from fines and penalties during fiscal year 1983-84 because the department deposited fines collected during fiscal year 1983-84 into the incorrect subaccount.

Although we could not identify all fines received during fiscal year 1983-84, we identified three fines totalling \$40,000 that should have been deposited into the subaccount for fines but were deposited into the subaccount for Hazardous Waste Haulers Fees instead. Although both subaccounts are within the Hazardous Waste Control Account, because of the incorrect classifications, the department did not accurately account for the different types of revenues it received.

The Manifest System Is Not Used To Identify
Illegal Disposals of Hazardous Waste

Although the department has improved its Hazardous Waste Shipping Manifest System (system), more improvement is needed. The department has made changes to the system that result in an increased percentage of manifests that can be matched. However, the department still does not use the system to track possible illegal dumping of hazardous waste. The system contains so much information that when the department prints a report of unmatched manifests, the report is so large that it is not usable. The department, therefore, no longer even prints a list of unmatched manifests, and consequently does not have a system to track possible illegal disposal of hazardous waste. Additionally, the effectiveness of the system is hindered by the size of the error file.

The federal Resource Conservation and Recovery Act and the California Health and Safety Code require the department to establish a system for tracking the movement of hazardous wastes from production sites to disposal sites. The system, referred to as a "hazardous waste shipping manifest system," requires that transported hazardous waste be accompanied by a "manifest," a list describing the type, amount, composition, origin, and destination of the waste. The manifest system is part of the department's automated Hazardous Waste Information System (HWIS).

For each shipment of hazardous waste, the generator and the disposer of the waste are required to submit to the department copies of the manifest within 30 days of the shipment and disposal. Currently, the department usually receives between 6,000 and 9,000 manifests each week. The department has designed an automated system to cross-match the generator and disposer copies of the manifests to determine if the waste arrived at the proper disposal site. A successful match would indicate that a load of hazardous waste shipped by a generator was discharged at an authorized hazardous waste disposal facility. If a match does not occur, the system should generate a "60-day report" so that the department may investigate the incident. Unmatched manifests could indicate that waste was dumped illegally. Although the system is designed to identify instances when hazardous waste does not arrive at authorized disposal sites, it also provides the State considerable data on the types and the volume of hazardous waste disposed.

Our October 1981 and November 1983 audits reported that the department's hazardous waste shipping manifest system was not effective. In 1981, the system did not compare copies of the manifest submitted by a generator and a disposer to verify that the load shipped by the generator was discharged at the proper site. The problem in 1983 was that approximately 40 percent of the manifests submitted contained some type of error that caused the manifest to go into the system's error or "suspense" file. Since the system was not programmed to match manifests in the suspense file, the 40 percent in the suspense file could not be matched.

Since our earlier reports, there has been some improvement. The department has changed the system so that it now searches its suspense file to match all of the manifests to determine if the load of hazardous waste that was shipped is the same load that was discharged at the disposal facility. The chief of the HWIS unit reported that approximately 95 percent of these manifests are matched and in our testing of 76 manifests, we obtained a similar match of 91 percent. However, the department is still unable to determine if the unmatched manifests indicate illegal disposals.

The 60-Day Report Is Too
Large To Be Useful

Despite the department's improvement in matching manifests, the system still cannot assure that toxic shipments arrive at authorized disposal sites. The department no longer even prints a list of unmatched manifests because the report is so large that it is not usable. The chief of the HWIS unit stated that it was last printed in the Spring of 1985, but it has never been used to track suspected illegal disposal of hazardous waste. He stated that the last time that the 60-day report was printed, it filled "about five boxes with computer printout." One of the key reasons for the size of the report is that the matching process does not screen manifests to identify those that, by program design, would not have a match or those that involve small amounts of waste and could therefore be less significant.

Some of the manifests that could be screened and separated from the 60-day report are those that report materials of low-level toxicity, those that report small quantities of waste, and those that report disposal at out-of-state or out-of-country sites. These types of manifests can greatly affect the size of the 60-day report. For example, one of the generators we reviewed disposes of low-level toxic wastes and submits a manifest for each shipment. However, the level of toxicity in the waste is so low that the waste can go to an unregulated disposal site. According to the chief of the HWIS unit, unregulated facilities are not required to submit a manifest. Consequently, in our example, the facility that receives the shipments does not submit a copy of the manifest. As a result, there is no match in the system for the manifests that the generator submits. The generator in this case has a file of 1,730 manifests in the system that do not have matches and would therefore be listed on the 60-day report.

Likewise, the EPA has established minimum amounts of waste that must be reported. According to the chief of the HWIS unit, although the State has not established similar minimum amounts that must be reported, the department could adapt the manifest system to screen the manifests submitted for shipments of small amounts of waste. This would reduce the size of the 60-day report to make it more usable, allowing the department to follow up on the potentially more hazardous unmatched manifests.

Out-of-state and out-of-country shipments represent still another type of manifest that may unnecessarily contribute to the number of unmatched manifests. Although the generator in California is required to submit a manifest, the out-of-state or out-of-country disposal facility cannot be required to do so. Consequently, there is a strong likelihood that manifests for shipments to out-of-state or out-of-country sites will not be matched. We tested 30 manifests submitted by nine generators for shipments out of California and found that 29 of the 30 manifests did not have a match. These out-of-state manifests would already be included in the EPA's national manifest system.

Because the department is not producing a 60-day report that is usable, the manifest system is not being used to identify the possible illegal disposal of hazardous waste, and there is no assurance that all hazardous waste shipments are arriving at authorized disposal sites. For example, in our test of 76 manifests, we found 7 unmatched manifests. Two of these manifests did not have a matching manifest in the system because the shipments contained low levels of toxics and the disposal site was not required to submit a manifest, and two did not match because the department made errors when entering the manifest data into the system.

However, we could not determine why three of these unmatched manifests were not matched. These are the type of manifests that the department would follow up on if it were using the 60-day report from

the manifest system. Each of these three unmatched manifests was from a generator. We contacted the three disposal facilities that these shipments were supposedly sent to. After researching our request, each of the three disposal facilities notified us that they had no record of ever receiving the shipment. These three manifests indicated potential illegal disposal that the department could have investigated if it could use its system.

To correct the situation, the department should reduce the number of manifests that need to be matched. This could be done by installing edits in the system that separate from the 60-day report certain types of manifests, such as manifests reporting low-level toxicity, small amounts of waste, and disposal at out-of-state or out-of-country sites.

The Large Suspense File Also
Limits the System's Effectiveness

In addition, the effectiveness of the system is still hindered by the size of the suspense file. Although the department now matches manifests in the suspense file, the suspense file remains large. The chief of the HWIS unit reported that approximately 30 percent of all the manifests that it receives contain an error that causes the manifests to go into the suspense file.

According to the department's reports summarizing the types of errors in the suspense file, over 50 percent of all errors in the

suspense file are due to incorrect EPA identification numbers for either the generator, the transporter, or the disposal facility. Department reports indicate that the remaining errors are caused by either generators or disposers who incorrectly complete the manifest forms. Our testing confirms the high percentage of errors due to incorrect EPA identification numbers. Forty-two of the 76 manifests that we tested were in the suspense file; 28 (67 percent) contained incorrect EPA identification numbers. We also found that the department made data entry errors that contribute to the size of the suspense file. For example, of 7 manifests that we could not match, 2 were in the suspense file because of data entry errors.

At the present time, the department does not correct errors and remove these manifests from the suspense file. The volume of manifests that the department receives, approximately 1,800 to 2,700 of which contain errors each week, is too large for manual error correction.

The large volume of manifests in the suspense file further contributes to the ineffectiveness and inefficiency of the manifest system in several ways. According to the chief of the HWIS unit, regional offices are reluctant to use the system to obtain statistical data or information on a generator or a facility because of the number of manifests with errors. Additionally, statistical reports must be produced separately from both the system's history file and its suspense file and then must be manually merged. Finally, the lack of

error correction can also increase the number of manifests that cannot be matched. As stated above, of the 7 unmatched manifests in our testing of 76 manifests, 2 did not match because the department did not correctly enter the data into the system.

Management Information Systems Need Improvement

The department does not have an effective system to track the status of its permitting, surveillance, and enforcement activities. The department currently relies on manual systems that are inefficient and unreliable. The lack of a reliable tracking system can result in program management problems and an inability to submit accurate, prompt data to the Legislature and the EPA. The condition of facility files and reporting systems at the regions further contributes to the problem.

Department Tracking Systems

In 1981 and 1983, the Auditor General also criticized the department's management information systems. In 1981 we reported that the department did not have an adequate system to monitor the status of corrective action. In 1983 we reported that, although the department had developed an automated information system, the regional offices did not use the system but instead relied on manual systems.

The department still does not have an effective management information system. Both good management practices and the department's agreement with the EPA require the department to have an effective system to track its permitting, surveillance, and enforcement activities. To meet this requirement, the department developed this capability as part of its HWIS. In fact, computer terminals were installed in each of the regional offices to allow the regions on-line access to the HWIS.

However, because of design and programming problems, the department has never been able to use this function of the HWIS. Instead, the department has relied on manual systems and to some extent on smaller computer systems. In a 1985 assessment, the EPA stated that "The existing systems for tracking enforcement and permitting data are generally inefficient and can only be regarded as temporary solutions." Department officials also regard the current systems as temporary and report that they are planning to redesign the HWIS so that it can be used to track permitting, surveillance, and enforcement activities. They could not, however, provide us an accurate estimate of when the HWIS could be used for tracking such information.

Because it does not have an adequate information system, the department does not produce reliable, prompt data. For example, the department prepares periodic reports that are based on information provided by the regions. A year-end report for fiscal year 1984-85 states on page 2 that the department issued 111 permits that year;

page 97 states that the department issued 101 permits; and regional statistics included in the report show that 107 permits were issued. According to data manually compiled by the department's permitting unit, the department issued 111 permits in fiscal year 1984-85. According to information that we received directly at the regional offices, 88 permits were issued in fiscal year 1984-85. Because of these discrepancies, we could not use reports produced by the department to verify the number of permits issued during fiscal year 1984-85 or the number of inspections conducted in fiscal year 1983-84.

In addition, the department's manual systems do not produce data promptly. The fiscal year 1984-85 report to the Legislature, due in August 1985, had not been submitted as of April 1, 1986. The first quarterly report for fiscal year 1985-86 was due to the Legislature by November 30, 1985, but had not been submitted as of April 1, 1986. In addition, the workplan for fiscal year 1986-87 was due to the Legislature on March 1, 1986, but had not been submitted as of April 1, 1986. Consequently, the Legislature cannot fully participate in decision making for the State's hazardous waste management program. Further, the department does not have adequate information to manage its program as effectively as possible, and it does not know the overall compliance status of hazardous waste facilities.

An additional effect of the department's lack of an adequate information system is that each of the regions has developed or is developing its own system. In fact, one of the regions has recently

developed a tracking system that could be used as a model by the department. Currently, however, each of the regions is spending time and money to develop its own system, duplicating a function that the HWIS was designed to perform but is not yet performing. Further, the headquarters office itself has been using two separate computer systems and the related hardware to accomplish a function that the HWIS was designed to perform.

According to the chief of the HWIS unit, the department has not developed an effective automated information system because it has not had the resources to do so.

Regions' Facility Files

Although some of the tracking systems at the regions showed improvement since our last report, the management of the facility files at the regional offices needs to be further improved.

Each region keeps a case file on every facility within the region. The file is supposed to provide comprehensive information about the facility, such as the current status of the facility and a history of the facility. According to department guidelines, the files are supposed to contain documents such as the permit, the Part A application, the statement of financial responsibility, compliance and inspection reports, corrective action plans, and any enforcement orders or settlement agreements.

However, we found facility files to be seriously incomplete. We reviewed 63 permit files at the three regional offices and found incomplete files at each office. For example, 6 of the files that we reviewed did not contain the facility permit, 37 did not contain statements of financial responsibility, and 29 did not contain the Part A application.

Perhaps even more importantly, the files did not provide information on the compliance status of the facility or on the enforcement actions of the department. For example, we reviewed reports of 92 inspections that revealed violations. For 42 of these inspections (46 percent), there was not sufficient evidence in the file to indicate that the department had followed up to ensure that the violation had been corrected.

Without this type of information, the department cannot effectively manage its regulatory program. Further, the department cannot determine the overall compliance status of facilities in the State or assess the effectiveness of its program. Another problem with incomplete file documentation, is that when staff leave the department there may be no way to determine what occurred in specific cases. We reviewed numerous cases in which the file documentation was incomplete and we had to locate the staff person responsible for the facility to answer our questions. In some cases, because the staff person was not available, there was no one who could answer our questions.

Recently, the department took action to improve the condition of its facility files. The department is developing a system to organize the information in the files and is currently testing the system at one of the regional offices.

II

THE DEPARTMENT HAS SPENT LITTLE OF THE AVAILABLE STATE SUPERFUND MONIES

Although the department has improved its performance since our report in November 1983 and now encumbers most of its budgeted amounts of Superfund monies, the department actually spent little of the available Superfund monies in fiscal years 1983-84, 1984-85, and in the first six months of fiscal year 1985-86. For reasons both within and beyond the department's control, actual cash expenditures of state Superfund monies were only 43 percent, 35 percent, and 10 percent (at mid-year) of the total available in the respective fiscal years. The amounts encumbered but unspent are unavailable for other projects or other contracts. Further, from the department's 1983 list of 60 sites that needed to be cleaned up, 48 are still on the list. The list now includes 226 sites that need to be cleaned up.

Superfund Program Funding

The California Health and Safety Code provides two funding sources for the cleanup of hazardous waste sites: the Hazardous Substance Account (the Superfund) and the Hazardous Substance Cleanup Fund (Bond Fund). These two funds can be used to pay the State's share of costs incurred under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and to clean up hazardous waste sites and releases of hazardous material for which

funds from the CERCLA program or from responsible parties are not available. Further, the department can use these funds to purchase equipment used to clean up releases of hazardous materials and to administer these programs. In addition, state Superfund monies can be used to compensate victims for medical expenses and loss of income resulting from exposure to hazardous materials and to study the effects on health from exposure to hazardous materials.

The State's Superfund is supported primarily by taxes that the State collects each year from facilities that generate hazardous waste. Before November 1984, the amount of taxes levied each year was determined by subtracting from \$10 million the department's estimate of the amount of unencumbered Superfund monies it had at June 30 of the previous year. In 1984, legislation was enacted that set the amount of taxes to be levied each year at \$15 million. Each year \$5 million of the taxes are to be transferred to the Hazardous Substance Clearing Account to be used for the payment of principal and interest on bonds sold under the Hazardous Substance Cleanup Bond Act of 1984. The remaining \$10 million in taxes is available for the cleanup of hazardous waste sites and other authorized uses. Any funds in the Superfund that are not encumbered on June 30 of each year are also transferred to pay off bond principal and interest.

The Hazardous Substance Cleanup Bond Act became effective in November 1984. The act authorizes the sale of \$100 million in bonds to provide funds for the cleanup of hazardous waste sites. As of

December 31, 1985, \$50 million of these bonds had been sold. There were no encumbrances of the Bond Fund as of December 31, 1985, and only \$800,000 had been spent for personnel costs related to the Bond Fund. These funds do not have to be spent within a specific fiscal year.

In October 1985, additional legislation was enacted that placed certain restrictions on spending Superfund and Bond Fund monies. Section 25355.5 of the Health and Safety Code stipulates that no money is to be spent from either the Bond Fund or the Superfund to clean up any site unless the department has issued orders to or entered into agreements with responsible parties to clean up the site or the department has determined and documented in writing that the responsible parties have not complied with the department's cleanup orders or agreements.

Cleanup Actions Reported by the Department

In its annual report to the Legislature for fiscal year 1983-84, the department stated that it spent state monies for staff time, contract funds, and health studies at 52 sites. State Superfund monies were reportedly spent to contract for work at 10 sites. In addition, the department reported that it requested federal financial assistance to clean up 13 sites. The department further reported that 49 sites were being cleaned up by the responsible parties and that the department was overseeing the cleanups. These projects were not all completed during the year.

According to the department's annual report for fiscal year 1984-85, the department evaluated 230 hazardous waste sites and ranked them according to their health risks to the general public and to the environment. The department also identified 46 hazardous waste sites that were cleaned up. Of these 46 cleanups, only one required Superfund monies. The remaining 45 were cleaned up by the responsible party at the direction of the department. The department also negotiated cooperative agreements with the EPA for work to be done at three sites: Del Norte, Stringfellow, and McColl.

According to the department, in the first three months of fiscal year 1985-86, responsible parties cleaned up six sites, and the department had a prominent role in the emergency cleanups of four hazardous waste sites. The department also responded to 18 emergency incidents.

Since the establishment of the Superfund in 1981, the department has spent or encumbered state Superfund monies on contracts to clean up 26 sites. A list of these sites and the status of the cleanups are presented in Appendix C.

The Department Has Not Spent All Available Funds

The department has spent only \$11.3 million (31 percent) of the \$36.6 million that was available for fiscal years 1983-84, 1984-85, and the first six months of fiscal year 1985-86. Table 4 shows the

budgeted allocations, the encumbrances, and the expenditures for each category of the Superfund program for state fiscal years 1983-84, 1984-85, and the first six months of fiscal year 1985-86.

TABLE 4
SUPERFUND MONIES BUDGETED,
ENCUMBERED, AND SPENT
FISCAL YEARS 1983-84, 1984-85, AND 1985-86
(IN THOUSANDS)

<u>Categories</u>	<u>Fiscal Year 1983-84</u>			<u>Fiscal Year 1984-85</u>			<u>July 1985 through December 1985</u>		
	<u>Budget</u>	<u>Total Encumbrances</u>	<u>Expenditures</u>	<u>Budget</u>	<u>Total Encumbrances</u>	<u>Expenditures</u>	<u>Budget^a</u>	<u>Total Encumbrances</u>	<u>Expenditures</u>
Contracts to clean up hazardous sites	\$ 6,611	\$4,922	\$1,390	\$ 9,745	\$ 9,944	\$1,159		\$3,404	\$ 1
Contracts to clean up hazardous materials	1,000	798	370	1,547	1,140	339	\$1,000	569	19
Compensation to injured parties	300	0	0	312	0	0	0	0	0
Agreements with state agencies	1,110	1,152	305	1,258	1,157	662		1,074	3
Salaries and operating expenses	<u>1,362</u>	<u>2,853</u>	<u>2,428</u>	<u>3,798</u>	<u>3,383</u>	<u>2,587</u>		<u>986</u>	<u>976</u>
Total	<u>\$10,383</u>	<u>\$9,725</u>	<u>\$4,493</u>	<u>\$16,660</u>	<u>\$15,624</u>	<u>\$5,773^b</u>	<u>\$9,552</u>	<u>\$6,033</u>	<u>\$999</u>
Percent of Budget	100.00%	93.66%	43.27%	100.00%	93.78%	34.65%	100.00%	63.16%	10.46%

^aBudget figures for each category were not available for fiscal year 1985-86.

^bThe total includes \$1.026 million of fiscal year 1984-85 funds that was spent between July 1, 1985, and December 31, 1985.

For fiscal year 1983-84, the department encumbered \$9.73 million (94 percent) of budgeted Superfund monies. It spent, however, only \$4.49 million (43 percent) of the available budget.

For fiscal year 1984-85, in addition to the \$10 million in tax revenue, the Legislature reappropriated \$6.66 million in prior years unencumbered funds to the Superfund. Of the total \$16.66 million available, the department encumbered \$15.62 million (94 percent). However, it spent only \$5.77 million (35 percent) of the amount available. Of the funds that were encumbered but not spent, \$6.9 million was encumbered in June 1985 for seven "zone contracts." Zone contracts were introduced by the department to contract for services related to the cleanup of toxic waste spills and sites. The department divided the State into three zones, and, for each zone, retains one to three contractors to conduct cleanup investigations, perform feasibility studies and laboratory analyses, prepare cleanup plans, and implement or oversee the cleanup of sites within that zone.

For fiscal year 1985-86, of the \$9.5 million available, \$6.03 million was encumbered through December 31, 1985, but only \$1 million (10 percent) was actually spent. Of these encumbrances, \$3.40 million was added to the seven zone contracts awarded in June 1985.* The chief of the site cleanup management unit stated that all unencumbered funds at June 30 would be encumbered in these zone contracts.

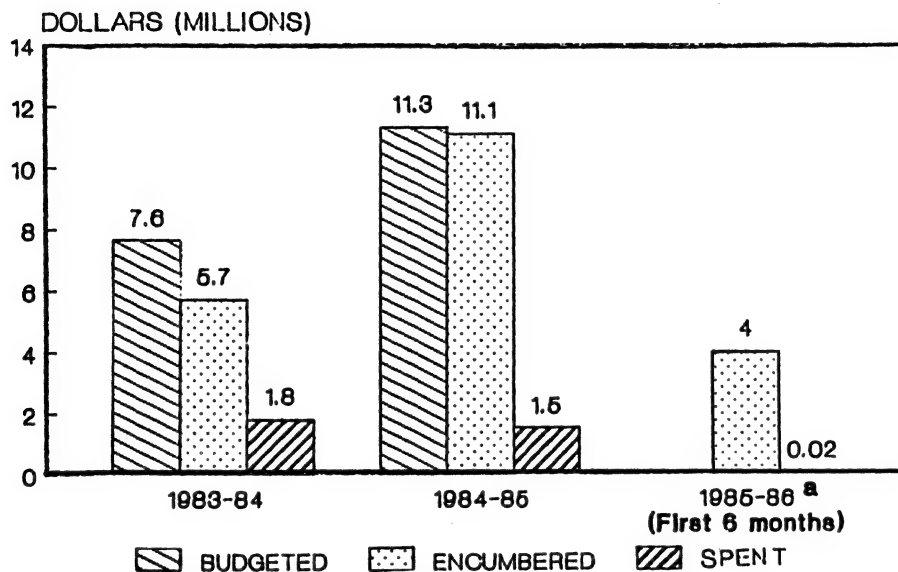
*The department is in the process of amending the funding on the fiscal year 1985-86 zone contracts to move the funding from the Superfund to the Bond Fund. Only \$760,000 of the \$3.4 million encumbered in fiscal year 1985-86 for zone contracts will remain as Superfund contracts. This change should be reflected in the department's March 1986 reports. Since we audited through December 31, 1985, this change is not reflected in our analysis.

Funds for Site Cleanup
Are Not Being Spent Promptly

Funds encumbered for contracts to clean up hazardous waste sites are not being spent promptly, indicating that the cleanup of hazardous waste sites is not as prompt as it could be. Further, when the department enters into contracts, the total amounts payable under the contracts are encumbered, and funds that have been encumbered are unavailable for expenditure on other projects. The department's list of open contracts for site cleanup as of February 28, 1986, shows a total of \$20.15 million encumbered for site cleanup but only \$3.95 million of that amount spent as of that date. These are contracts for which funds have been encumbered from as long ago as fiscal year 1982-83.

Figure 4 compares the amounts spent each year for contracts to clean up hazardous waste sites to the amounts encumbered and the amounts budgeted.

FIGURE 4
AMOUNTS BUDGETED, ENCUMBERED, AND SPENT ON
CONTRACTS TO CLEAN UP HAZARDOUS WASTE
JULY 1983 THROUGH DECEMBER 30, 1986



^aComplete budget figures were not available for fiscal year 1985-86.

Over one-half of the open contract money is encumbered under zone contracts. However, the department has been slow to spend funds on these zone contracts. In June 1985, the department encumbered \$6.9 million in Superfund monies under seven zone contracts that expire in December 1986. In fiscal year 1985-86, another \$3.4 million was encumbered to these same zone contracts, bringing the total of these contracts to \$10.3 million.

The department must issue a task order that specifies the work that the contractor must do before any work can be done under the zone

contracts. Since July 1, 1985, the department's regional offices have submitted only 25 task orders to headquarters for approval. As of February 28, 1986, of the 25 submitted, only 20 task orders, totaling \$554,793, had been issued and no invoices had been paid. In addition, the department has been slow in initiating new task orders. The department has less than ten months remaining on the contracts in which to issue task orders for the remaining \$9.8 million or the department will have to amend the contracts to allow more time for task orders to be issued.

The department is slow to spend encumbered funds for several reasons, some of which are beyond the department's control. First, a provision in Section 25355.5 of the Health and Safety Code enacted in October 1985 requires the department to issue an order to responsible parties to clean up the site and to determine and document in writing that the responsible party is not complying with the order before the department can spend state funds for the cleanup. This can become a lengthy process. The promptness of site cleanup can also be affected by external factors. In one instance, the department has had to suspend cleanup activity at a site for almost a year because a court order required the department to obtain an environmental impact report before proceeding with the cleanup. Also, according to the chief of the site cleanup management unit, contractors are often slow to bill the department for work done. He also stated that lack of available staff time to review and follow up on old contracts contributes to the low expenditures.

In addition to not spending funds on open contracts, the department has been slow to disencumber funds from expired contracts. As of February 28, 1986, the department had approximately \$1.76 million encumbered under expired contracts.* These funds are unavailable for other uses. For example, in fiscal year 1983-84, \$215,000 was encumbered for a contract that was never approved by the Department of General Services and, therefore, was not a valid contract. As of February 28, 1986, eight months after the contract term was to expire, the funds had not been disencumbered, even though there was no valid contract. According to the chief of the site cleanup management unit, there is not always staff time available to follow up on old contracts. Department records indicate that, in some cases, the department sent release forms to the contractor but received no response; however, department records do not indicate that any followup was done to obtain the releases. The chief of the site cleanup management unit also said that sometimes contracts are not disencumbered because the contractors are slow to submit invoices.

The department's failure to spend encumbered funds indicates that site cleanup is not being done. Of 60 hazardous waste sites listed in our report of 1983, all but 12 are still on the 1986 list of sites to be cleaned up. The department's list of hazardous waste sites needing cleanup now includes 226 sites. (See Appendix D for a list of these sites.)

*An additional \$1.374 million is still unexpended on a contract to clean up the McColl site. Because of a court order to stop work, these funds will not be disencumbered until the legal issues are resolved.

Prompt cleanup of hazardous waste sites is important because, as contamination continues, costs to cleanup these sites increase and the likelihood of a complete cleanup decreases. Additionally, when funds are tied up in expired contracts or in contracts under which cleanup is not being done, these funds are unavailable for use on other projects within the State's hazardous waste management program. For instance, some of the \$20.15 million in encumbrances could be used to further develop the department's management information systems. As discussed on pages 36 through 46 of this report, both the manifest tracking component and the management information component of the Hazardous Waste Information System need additional resources to become effective. An effective management information system would be a direct benefit to the management of site cleanup projects. Also, if limited staffing is a reason for not spending Superfund monies, some of the encumbered funds could be used to provide more staff and speed up site cleanup.

Finally, when these funds are not encumbered and spent within the time limits set by legislation, the funds become unavailable for site cleanups and are transferred to a trust fund to pay off the Bond Fund. In this case, the funds would not be used for the purpose for which the Legislature and the people of the State intended them: to clean up hazardous waste sites.

Unspent Funds for Other Activities

In addition to not spending promptly for contracts to clean up hazardous waste sites, the department also did not spend its full allocation for other Superfund program services. For example, the department did not spend all of the encumbered amounts for interagency agreements. These agreements are made with other state agencies to administer the victims compensation program, to collect taxes, and to provide legal assistance. Expenditures on these agreements were lower than the department anticipated because a lower level of service was required.

The department did not encumber or spend any of the funds budgeted each year to compensate injured persons for medical expenses and loss of income resulting from exposure to hazardous material because no claims for compensation were filed.

III

CONCLUSION AND RECOMMENDATIONS

The Department of Health Services has improved some elements of its program to regulate hazardous wastes; however, further improvement is needed. Since 1983, the department has improved its performance in issuing permits to facilities that treat, store, or dispose of hazardous wastes. The department is also exceeding its goals for inspecting facilities. However, not all inspections reported are for separate facilities. We estimate that, although the department conducted about 1,000 inspections during 1985, it inspected fewer than 580 separate facilities that treat, store, or dispose of hazardous wastes. Therefore, it is possible that the department is not inspecting many of the smaller facilities for long periods of time.

Also, the department does not always promptly investigate complaints received from the public on its Waste Alert Hotline. The department did not refer eight complaints originally made between February 1985 and August 1985 until January 1986, up to 12 months after they were received.

In addition, the department does not always follow up on violations discovered during inspections of facilities or pursue all appropriate enforcement mechanisms to ensure compliance with hazardous waste laws and regulations. For example, the department did not follow

up on 22 (24 percent) of the 92 violations it identified to determine whether the violations had been corrected. Further, the department took formal enforcement action in only 77 (31 percent) of the 250 Class 1 violations it identified. Department records indicate that the department took no enforcement action on 59 (24 percent) of the Class 1 violations and did not even formally notify the facility to correct the violation.

The department also does not collect all fines and penalties assessed as a result of enforcement actions. The department does not have a tracking system to identify assessments, receipts, and amounts outstanding. Additionally, even when the department is aware that it is due monies for fines and penalties, the department has not collected all it is due. We calculated that at least an additional \$98,688 should have been sent to the department for the activities of local health officers. Finally, the department deposited revenues from fines and penalties received during fiscal year 1983-84 into an incorrect subaccount.

Also, the department does not fully use its automated management information system to monitor its program activities. The department does not use the Hazardous Waste Shipping Manifest System to track possible illegal dumping of hazardous waste. Also, the department does not have an effective automated system to track the status of its permitting, surveillance, and enforcement activities and to provide data necessary for effective program management.

Finally, although the department encumbers most of its budgeted amounts of Superfund monies to ensure availability of these funds for expenditure, the department actually spends little of the encumbered amounts. In fiscal years 1983-84, 1984-85, and in the first six months of 1985-86, the department spent 43 percent, 35 percent, and 10 percent, respectively.

Recommendations

To improve its program to regulate hazardous waste facilities, the Department of Health Services should do the following:

- Regularly inspect all facilities that treat, store, or dispose of hazardous waste.
- Refer hotline complaints promptly to the regional and branch offices for investigation.
- Conduct prompt followup to ensure that facilities correct violations of hazardous waste laws. Maintain records on the status of followup and corrective action.
- Formally notify each facility whenever a violation is discovered.

- Require regional offices to take formal enforcement actions against all facilities with Class 1 violations.
- Develop and implement an effective system to track the status of enforcement actions taken against a facility for violations of hazardous waste control laws.
- Develop and implement a tracking system to identify monies due in fines and penalties, receipts, and amounts outstanding resulting from enforcement actions.
- Obtain and review court judgments and settlement statements to identify apportionments of fines and penalties awarded under Section 25192 of the Health and Safety Code.
- Review all receipts for fines and penalties since fiscal year 1983-84 to determine whether deposits were made correctly.
- Reduce the size of the 60-day report from the Hazardous Waste Shipping Manifest System to make the report more manageable. This could be done by eliminating from the 60-day report those manifests that, by system design, will not be matched, such as those reporting materials of low toxicity and those reporting disposal at out-of-state or out-of-country sites. The department could also segregate those manifests that report small amounts of toxics and that could be a lower priority for department attention.


- Adapt the Hazardous Waste Information System to enable the department to use it to provide information for effective program management. The department should identify the minimum data required to effectively track its permitting, surveillance, enforcement, and site-cleanup activities.

To ensure that the department effectively uses all available Superfund monies to clean up hazardous waste sites and conduct related activities, the department should do the following:

- Monitor the status of contracts more closely, conduct prompt closeout audits of expired contracts, and promptly disencumber funds remaining from these contracts. Further, the department should ensure that all new contracts contain provisions requiring contractors to submit invoices promptly.
- Maximize the use of available Superfund monies. The department should direct staff resources to ensure that monies encumbered, such as the \$10.3 million under the zone contracts, are spent appropriately and promptly. Also, the department should more expeditiously develop task orders to use under the zone contracts.

We conducted this review under the authority vested in the Auditor General by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Date: May 12, 1986

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APPENDIX A

SUMMARY OF PREVIOUS AUDITOR GENERAL REPORTS ON CALIFORNIA'S HAZARDOUS WASTE MANAGEMENT PROGRAM

"California's Hazardous Waste Management Program
Does Not Fully Protect the Public From the
Harmful Effects of Hazardous Waste,"
(Report P-053, October 1981)

In October 1981, the Auditor General reported on the department's hazardous waste management program. The report stated that, since 1978, the department had issued permits to only 18 of the estimated 1,200 hazardous waste facilities in the State, had not effectively enforced hazardous waste control laws, and had not effectively controlled the transportation of hazardous waste. The report concluded that, as a result of these weaknesses, neither the public nor the environment was sufficiently protected from the harmful effects of hazardous waste.

The Auditor General recommended that the department develop specific procedures for issuing permits, conduct routine compliance inspections, monitor the status of corrective action taken by facilities, apply sanctions to violators of the law, and improve its system for tracking manifests to ensure that the system effectively monitors the shipment of hazardous waste. The Auditor General also recommended that the department develop written procedures for all of its activities. Finally, the Auditor General recommended that the department quantify its objectives, establish methods to measure performance, develop workload standards for its programs to determine staffing levels and justify staffing requests, and improve its management reporting system.

"The State's Hazardous Waste Management Program:
Some Improvement, But More Needs To Be Done,"
(Report P-343, November 1983)

In November 1983, the Auditor General again reported on the department's hazardous waste management program. The report stated that the department had taken actions to improve the hazardous waste program but that the program still did not adequately protect the public and the environment from the harmful effects of hazardous waste. The report stated the department had issued few permits to hazardous waste facilities, had not effectively enforced hazardous waste control laws, had not effectively monitored the transportation of hazardous waste, and had not spent all Superfund program monies available for cleanup of hazardous waste sites and other activities covered by the Superfund program.

The Auditor General recommended that the department continue to develop specific goals and objectives for issuing permits to hazardous waste facilities, enforcing hazardous waste control laws, and controlling the transportation of hazardous waste. The Auditor General also recommended that the department develop specific procedures to guide staff in conducting inspections to identify violations of hazardous waste control laws and follow up to ensure that these violations of hazardous waste control laws were corrected; develop workload standards for each program activity so that it can establish staffing levels and justify staffing requests; and develop standards for containers used to haul hazardous waste and for training drivers of vehicles that transport hazardous waste. Finally, the Auditor General recommended that the department improve its use of its automated management information system and continue to make improvements to the manifest system to ensure the system effectively monitors the shipment of hazardous waste.

APPENDIX B

THE DEPARTMENT OF HEALTH SERVICES' IMPLEMENTATION OF PREVIOUS AUDITOR GENERAL RECOMMENDATIONS ON THE HAZARDOUS WASTE MANAGEMENT PROGRAM

In October 1981 and November 1983, the Auditor General issued reports concerning the State's hazardous waste management program. Also, in April 1984, the Auditor General issued a report concerning the contamination of water supplies. Below are recommendations from these reports and a summary of the Department of Health Services' efforts to implement them.

"California's Hazardous Waste Management Program
Does Not Fully Protect the Public From the
Harmful Effects of Hazardous Waste,"
(Report P-053, October 26, 1981)

"The State's Hazardous Waste Management Program:
Some Improvement, But More Needs To Be Done,"
(Report P-343, November 30, 1983)

Recommendation (1981 and 1983 reports)

The Department of Health Services should develop specific goals and objectives for issuing permits to hazardous waste facilities and enforcing hazardous waste control laws.

Status

The department develops annual goals and objectives for issuing permits and inspecting facilities and lists them in its annual work plan. (See pages 10 through 20 of this report.)

Recommendation (1981 and 1983 reports)

The Department of Health Services should develop specific procedures for conducting inspections of hazardous waste facilities, and follow up to ensure that violations of hazardous waste laws are corrected. The department should also take steps to ensure that regional offices comply with new procedures for applying sanctions to violators of these laws.

Status

The department has developed detailed checklists for use in its inspections. The checklists are specific to the type of facility inspected. The department also has an Enforcement Field Operations Manual that it uses when deficiencies are identified. However,

regional staff reported that the department does not have a set of specific procedures for conducting inspections.

We also found, however, that the department still does not always follow up to ensure that violations of hazardous waste control laws are corrected. (See pages 23 through 24 of this report.) Further, although the department reported in 1983 that it had developed stricter procedures for applying sanctions to violators of hazardous waste control laws, we found that the department does not always take enforcement action against violators. For instance, for 250 Class 1 violations, the department took formal enforcement action in only 77 instances. (See pages 25 through 30 of this report.)

Recommendation (1981 and 1983 reports)

The Department of Health Services should develop workload standards for each program activity so that it can establish staffing levels and justify staffing requests.

Status

The department has established workload standards and is using them for establishing staffing levels and justifying staffing requests. According to the supervisor of the headquarters permitting unit, the standards are very similar to the EPA's, and the permit writers are accomplishing work that confirms the standards.

Recommendation (1983 report)

The Department of Health Services should improve its use of its automated management information system.

Status

The department completed a study of the system in July of 1984, and some improvements have been made. However, the Hazardous Waste Information System still cannot be used for two of its main purposes: to identify possible illegal disposals of hazardous waste and to track permitting, surveillance, and enforcement activities. (See pages 43 through 48 of this report.)

Recommendation (1981 and 1983 reports)

The Department of Health Services should make improvements to the Hazardous Waste Shipping Manifest System to ensure that the system effectively monitors the shipment of hazardous waste.

Status

The department has improved the manifest tracking system so that it can now match manifests against the suspense file. However, the system is still not usable for its main purpose--tracking illegal disposals. (See pages 36 through 43 of this report.)

Recommendation (1983 report)

To ensure that the Department of Health Services uses all available Superfund monies to clean up hazardous waste sites, the department should allocate to individual hazardous waste sites all funds available for cleanup contracts.

Status

The department has improved its handling of Superfund monies by encumbering funds to ensure their availability. However, the department is still slow in actually spending the encumbered funds to clean up hazardous waste sites. (See pages 49 through 60 of this report.)

"The State of California Should Do More To
Reduce and Prevent Contamination of Water Supplies,"
(Report P-376, April 4, 1984)

Recommendation

The Department of Health Services and the State Water Resources Control Board should expedite processing of their 1983-84 interagency agreement. Both agencies should also expedite processing of future agreements to ensure that they are signed by the beginning of the agreement period.

Status

Each year the department enters into an interagency agreement with the State Water Resources Control Board (water board). The water board provides the department with the technical staff necessary to evaluate the potential water quality hazards associated with the permitting of hazardous waste land disposal facilities. The water board also provides surveillance and groundwater monitoring reviews consistent with requirements of the Resources Conservation and Recovery Act.

In 1984 we reported that delays in completing the interagency agreement shortened the time the water board had to accomplish its commitments under the agreement. At that time, water board officials stated that they could not fulfill their responsibilities under the agreement because of the limited time remaining in the fiscal year after the agreement was completed.

Since our 1984 report, the department and the water board have continued to be late in completing the interagency agreement. The fiscal year 1983-84 agreement was signed in March 1984, over six months after the agreement period began; the 1984-85 agreement was signed in July 1985, one month after the end of the agreement period; and the 1985-86 agreement was signed in March 1986, eight months after the agreement period began.

However, according to the chief of the department unit that contracts with the water board, delays in signing the agreement no longer have the effect of limiting the time the water board has to do its work. He stated that the water board performs its responsibilities on the assumption that the agreement will be signed. He also stated, however, that until the agreement is signed, the department cannot make demands on the water board because there is no formal contract.

**STATE SUPERFUND EXPENDITURES AND
STATUS OF CLEANUP PROJECTS AT
HAZARDOUS WASTE SITES
(AS OF DECEMBER 31, 1985)**

Site Name	Expenditures*				Status of Cleanup Projects						
	Total		State Funds (HSA)		Federal Funds		Funding	Collecting Data	Evaluating Alternatives	Remedial Action Plan	Implementing Cleanup Plan
	Encumbered	Expended	Encumbered	Expended	Encumbered	Expended					
A-1 Plating	\$ 12,000 **	\$ 241,000	\$ 12,000	\$ 241,000	0	0	0	In Progress	In Progress	In Progress	
Aerogel Area	250,000 +	0	250,000	0	0	0	0	In Progress	In Progress	In Progress	
Alviso Area	15,000 **	0	15,000	0	0	0	0	In Progress	In Progress	In Progress	
Auto Recovery	10,000 **	0	10,000	0	0	0	0	In Progress	In Progress	In Progress	
Bay Area Drum	13,000 **	0	13,000	0	0	0	0	In Progress	In Progress	In Progress	
BOR Industries	12,000 **	0	12,000	0	0	0	0	In Progress	In Progress	In Progress	
Capri Pumping	1,291,000	1,291,000	1,291,000	1,291,000	0	0	0	Completed	Completed	Completed	Completed
Caltox Chemical	37,000	33,000	37,000	33,000	0	0	0	Completed	Completed	Completed	In Progress
Del Amo/Cadilla Fairview	422,000	0	422,000	0	0	0	0	In Progress	In Progress	In Progress	
Denson Prop.	21,000 **	0	21,000	0	0	0	0	In Progress	In Progress	In Progress	
Hannan	42,000 **	0	42,000	0	0	0	0	In Progress	In Progress	In Progress	
Jensen Lumber	7,000 **	0	7,000	0	0	0	0	In Progress	In Progress	In Progress	
Jibboom Junkyard	10,000	10,000	10,000	10,000	0	0	0	Completed	Completed	Completed	Completed
Liano Barrels	211,000	211,000	211,000	211,000	0	0	0	Completed	Completed	Completed	Completed
McColl	19,545,000 ***	7,486,000	3,786,000 ++	2,006,000	15,759,000 ++	5,480,000	5,480,000	Completed	Completed	Completed	Completed
McMinn Ave	19,000 **	0	19,000	0	0	0	0	In Progress	In Progress	In Progress	
Morris, Kim Fly	12,000 **	0	12,000	0	0	0	0	In Progress	In Progress	In Progress	
Neville Chemical	1,000	1,000	1,000	1,000	0	0	0	In Progress	In Progress	In Progress	
North First Str	11,000 **	0	11,000	0	0	0	0	In Progress	In Progress	In Progress	
Purity Oil	774,000	577,000	75,000	9,000	699,000	568,000	568,000	Completed	In Progress	In Progress	
Space Ordnance	22,000 **	0	22,000	0	0	0	0	In Progress	In Progress	In Progress	
Mint Canyon											
Space Ordnance	24,000 **	0	24,000	0	0	0	0	In Progress	In Progress	In Progress	
Placerita Canyon	16,044,000	12,187,000	2,681,000	2,149,000	13,363,000	10,037,000	10,037,000	Completed	In Progress	In Progress	
Stringfellow	6,000 **	0	6,000	0	0	0	0	Completed	In Progress	In Progress	
Thomas Ranch	12,000 **	0	12,000	0	0	0	0	Completed	In Progress	In Progress	
Turlock Sales	7,000 **	0	7,000	0	0	0	0	Completed	In Progress	In Progress	
Verticare Helicopters											
Total	\$38,830,000	\$22,037,000	\$9,009,000	\$5,952,000	\$29,821,000	\$16,085,000					

*These amounts are strictly for contracts and do not include department staff time.

**Funds are encumbered under zone contracts. Task orders have been issued in these amounts as of February 28, 1986.

***Includes task orders issued for \$309,000 for environmental impact review.

****These amounts are for legal action only and are not cleanup contracts.

*****Work has been stopped on these contracts due to a court order. These contracts will be held until work can be completed.

HAZARDOUS WASTE SITES IN CALIFORNIA
DEPARTMENT OF HEALTH SERVICES
STATE PRIORITY RANKING LIST
OCTOBER 1985

The following is a list of hazardous waste sites that need to be cleaned up. The department has ranked these sites according to the degree of risk they pose to the public on the environment and according to the cost-benefit of cleanup.

<u>Rank</u>	<u>Site Name</u>	<u>County</u>
001	Custom Chrome and Bumper Company	Sutter
002	Flex-Multilayer, Inc.	Tulare
003	Clovis Drum, Herndon	Fresno
004	Auto Recovery Service	Nevada
005	Laque Sales	San Joaquin
006	Fass Metals	Contra Costa
007	Chico Scrap Metal Yard	Butte
008	Starswept Lane House	Santa Clara
009	Bay Area Drum Company	San Francisco
010	Kawah Crop Dusters	Tulare
011	A-1 Plating Company	Sacramento
012	Turlock Sales Company	Stanislaus
013	Hang 'Em High	Kings
014	Tripp Residence/Saratoga House	Santa Clara
015	Dean and Associates	Los Angeles
016	Harmon Field	Tulare
017	Clovis Drum, Brookhaven	Fresno
018	Southern Pacific Transportation Co., No. Hollywood	Los Angeles
019	Lyle Van Patten Company, Inc.	Los Angeles
020	Yuba County Airport	Yuba
021	Denson Property	Nevada
022	Thomas Ranch	Riverside
023	B. O. R. Industries	Yolo
024	Glenn County (Willows) Airport	Glenn
025	Madera Municipal Airport	Madera
026	Harbour Way South (#738)	Contra Costa

*On the National Priorities List

Rank	Site Name	County
027	Jim Morris Flying Service	Sutter
028	McMinn Avenue (#841)	Sonoma
029	Verdegaal Brothers, Inc.	Kings
030	Bray Oil Co./Burmah-Castrol, Inc.; Los Angeles	Los Angeles
031	Shafter Airport/Winter Field	Kern
032	*Coast Wood Preserving, Inc.	Mendocino
033	Verticare Helicopters	Monterey
034	*Louisiana Pacific Corporation	Butte
035	Southland Oil, Inc.	Los Angeles
036	Hugo Neu Proler Company	Los Angeles
037	Chevron Refinery, El Segundo	Los Angeles
038	Merced Municipal Airport	Merced
039	Park Boulevard (#2901), Palo Alto (nee S.P.R.R.)	Santa Clara
040	Aydin Energy	Santa Clara
041	*Van Waters & Rogers, Division of Univair	Santa Clara
042	North First Street Plume, San Jose	Santa Clara
043	Chatham Brothers Barrels	Santa Clara
044	Space Ordnance Systems, Sand Canyon Facility	San Diego
045	*Selma Pressure Treating Company	Los Angeles
046	Southern Pacific Transportation Co., French Camp	Fresno
047	*Alviso Area	San Joaquin
048	University of California, Riverside	Santa Clara
049	Neville Chemical Company	Riverside
050	Issac Cohen and Son, Inc.	Los Angeles
051	Old Hanford County Dump	San Bernardino
052	Palm Iron and Bridge Works, Sacramento	Kings
053	Ecodyne Cooling	Sacramento
054	El Capitan Quarry/El Cajon Mine	Sonoma
055	Waste Disposal, Inc.	San Diego
056	*Lorentz Barrel & Drum Company	Los Angeles
057	*Zoecon Chemical Corp./Chipman Chemical Company	Santa Clara
058	Port of Oakland, Embarcadero Cove	San Mateo
059	1021 Berryessa Road, San Jose	Alameda
060	Eagle Field Airport	Santa Clara
061	Lika Corporation, Field Avenue Annex	Fresno
062	Lodi (Linds) Airport	San Joaquin
063	*Westinghouse Elect. Corp., Marine Div., Sunnyvale	San Joaquin
064	Pacific States Steel	Santa Clara
065	Orchard Supply Company	Alameda
066	*Liquid Gold Oil Corporation	Sacramento
067	Los Banos Airport	Contra Costa
068	Spain Air, Inc.	Merced
		Fresno

*On the National Priorities List

Rank	Site Name	County
069	*MGM Brakes	Sonoma
070	Lakeland Duster Aviation	Kings
071	The Clorox Company	Alameda
072	Hoopa Veneer/Humboldt Fir	Humboldt
073	Ace Oil Company	Sacramento
074	BKK Corporation/West Covina Sanitary Landfill	Los Angeles
075	Alark Hard Chrome	Riverside
076	Frontier Fertilizer Company	Yolo
077	Summer del Caribe, Inc.	Contra Costa
078	Lika Corporation, Navy Drive Facility	San Joaquin
079	Space Ordnance Systems, Mint Canyon Facility	Los Angeles
080	Commercial Electroplaters	Fresno
081	*J. H. Baxter & Co., Weed	Siskiyou
082	Del Amo Boulevard	Los Angeles
083	*Aerojet General Corporation	Sacramento
084	American Forest Products Company, Martell	Amador
085	Wasco Airport	Kern
086	Berman Steel, Salinas	Monterey
087	Agro-West, Inc.	Fresno
088	Wildberg Bros./Healy Tibbits	San Mateo
089	Sobek Ranch	Tehama
090	Britz, Inc., Five Points	Fresno
091	Church & Fruit Junkyard	Fresno
092	American Ag Aviation	Fresno
093	*Celtor Chemical Works	Humboldt
094	*Firestone Tire & Rubber Company	Monterey
095	Bailard Landfill, Oxnard	Ventura
096	Drew Sales	Contra Costa
097	Gas 'N' Save	Yolo
098	Western Forge and Flange	Alameda
099	Apache Services	San Diego
100	Wickes Forest Industries, Elmira	Solano
101	C. T. Alloy Sprockets	Yuba
102	Thatcher Glass Company	Los Angeles
103	*Montrose Chemical Company	Los Angeles
104	Lubrication Company of America	Humboldt
105	Cal Pacific Lumber	Los Angeles
106	*Operating Industries, Inc.	Fresno
107	H. S. Mann Metals Waste	Orange
108	*McColl	
109	*Hewlett Packard, Palo Alto	Santa Clara
110	Lodi Door & Metal Company	San Joaquin

*On the National Priorities List

Rank	Site Name	County
111	*Stringfellow	Riverside
112	Parkside Drive	Riverside
113	Chico Groundwater	Butte
114	Hillview-Eleanor Area Plume, Los Altos	Santa Clara
115	*Monolithic Memories, Inc.	Santa Clara
116	*Teledyne Semiconductor, Mountain View Facility	Santa Clara
117	Valley Wood Preserving	Stanislaus
118	Leviathan Mine	Alpine
119	Leslie Salt	Alameda
120	Sutter County Airport	Sutter
121	*Coalinga Asbestos Mine	Fresno
122	Brown & Bryant, Inc., Arvin Facility	Kern
123	General Electric Co., Aviation Service Operation	San Bernardino
124	*Advanced Micro Devices, Inc.	Santa Clara
125	Chico Municipal Airport	Butte
126	*Raytheon Corporation	Santa Clara
127	John Smith Road Disposal	San Benito
128	*Del Norte County Pesticide Storage Area	Del Norte
129	Kendall Company Plant	Merced
130	*Purity Oil Sales/Fresno	Fresno
131	Chemurgic Agricultural Chemicals Company	Stanislaus
132	Jensen Lumber Company	Trinity
133	*National Semiconductor	Santa Clara
134	Leeder Chemicals Company	Santa Clara
135	Puregro Company, Bakersfield	Los Angeles
136	*Beckman Instrumentation, Inc.	Kern
137	Crafton-Redlands	Tulare
138	Gardena Sumps	San Bernardino
139	Pacific Gas & Electric/Shell Oil Company	Los Angeles
140	Handicraft Tile, Inc.	Contra Costa
141	*Atlas Asbestos Mine	Santa Clara
142	*Applied Materials	Fresno
143	*Fairchild Camera & Instrument Corp., Mountain View	Santa Clara
144	*Intel Corporation, Mountain View	Santa Clara
145	*Intel Corporation, Santa Clara 3	Santa Clara
146	*Intel Magnetics	Santa Clara
147	*Precision Monolithics, Inc.	Santa Clara
148	*Signetics Corporation	Santa Clara
149	North San Bernardino, Muscoy Area	Santa Clara
150	Southern California Edison--Visalia Poleyard	San Bernardino
151	*Thompson Hayward Chemical Company	Tulare
152	Ekotek Lube	Fresno
		Alameda

*On the National Priorities List

Rank	Site Name	County
153	*PMC Corporation, Agricultural Chemical Group	Fresno
154	Basin By-Products	Los Angeles
155	*Southern Pacific Transportation Co., Roseville	Placer
156	*Koppers Company, Inc., Oroville	Butte
157	*Fairchild Camera & Instrument Corp., So. San Jose	Santa Clara
158	*Iron Mountain Mine	Shasta
159	Rockwell/Rocketdyne	Ventura
160	Sisk Ranch-Gallo Bricks	Stanislaus
161	Chevron Chemical/Ortho Division	Contra Costa
162	MacGillis & Gibbs Company	Madera
163	American Forest Products Company, Foresthill	Placer
164	Metropolitan Circuits	Orange
165	*San Gabriel Groundwater Basin-Area 1	Los Angeles
166	*San Gabriel Groundwater Basin-Area 2	Los Angeles
167	*Marley Cooling Tower Company	San Joaquin
168	Hazel Avenue Ponds	Sacramento
169	*IBM Corp., General Products Div., San Jose	Santa Clara
170	Sacramento Surplus Sales Company	Sacramento
171	*Jibboom Junkyard	Sacramento
172	Sulfur Bank Mine	Lake
173	Levin Richmond Terminal/United Heckathorn Co.	Contra Costa
174	*San Fernando Valley Basin-Area 1 (North Hollywood)	Los Angeles
175	Arcady Oil Company	San Joaquin
176	Rio Bravo Disposal Facility	Kern
177	Sun Chemical Corporation	San Mateo
178	Brea Agricultural Services	San Joaquin
179	ASARCO	Contra Costa
180	Point Pinole/Bethlehem Steel Corporation	Contra Costa
181	*San Gabriel Groundwater Basin-Area 3	Contra Costa
182	*San Gabriel Groundwater Basin-Area 4	Los Angeles
183	Santa Ysabel	Los Angeles
184	Point Isabel	San Diego
185	Proto Mold	Contra Costa
186	Franciscan Ceramics, Inc.	Santa Clara
187	Brown & Bryant, Inc., Shafter Facility	Los Angeles
188	*San Fernando Valley Basin-Area 2 (Crystal Springs)	Kern
189	*San Fernando Valley Basin-Area 3 (Glorietta)	Los Angeles
190	*San Fernando Valley Basin-Area 4 (Pollock)	Los Angeles
191	Chemical and Pigment Company	Contra Costa
192	Purity Oil Sales/Delta Gunitite, Sacramento	Sacramento
193	Lycoc Chemical Company	Kern
194	Gallo Glass-Raffie	Stanislaus

*On the National Priorities List

Rank	Site Name	County
195	TCL Corporation	Los Angeles
196	Walker Mine	Plumas
197	Cooper Chemical	Contra Costa
198	Sinclair Paint Company	Los Angeles
199	Manville Corporation	Los Angeles
200	Willco Landfill	Los Angeles
201	Benham & Johnson	Kern
202	Southern California Gas Company, Olympic	Los Angeles
203	Beacon Oil	Kings
204	Hercules Properties Ltd., Inc.	Contra Costa
205	Westinghouse Elect. Corp., Emeryville	Alameda
206	Cal Compact Landfill	Los Angeles
207	Plessey Micro Sciences	Santa Clara
208	Balakala Mine	Shasta
209	Burmah Castrol Co./Bray Oil Company	Contra Costa
210	Mammoth Mine	Shasta
211	Southern Pacific Transportation Co., Sacramento	Sacramento
212	White Rock Dump	Sacramento
213	Pine Logging Camp	Fresno
214	Southeast Regional Disposal	Fresno
215	Almaden Quicksilver County Park	Santa Clara
216	Auburn Sanitary Landfill	Placer
217	FMC Corporation, Richmond	Contra Costa
218	Ascon Landfill, Huntington Beach	Orange
219	FMC Corporation, Newark	Alameda
220	Pacific Gas & Electric/Martin Service Center	San Mateo
221	Electro Coatings, Inc.	Alameda
222	Koppers Chemical, Los Angeles	Los Angeles

*On the National Priorities List

The following sites have been added to the State's priority site list since October 1985. These sites are being cleaned up by responsible parties and have not been ranked by the department.

Site Name	County
Oxychem	San Joaquin
Wareham/East Bay Washrack	Alameda
McCormick & Baxter	San Joaquin
Trojan Power Works	Alameda

In addition, Section 25356 of the Health and Safety Code requires the department to maintain three lists, categorizing the sites in the following way: (1) sites that are being cleaned up voluntarily by the responsible party, with department oversight, (2) sites that have been fully assessed but for which a responsible party has either not been identified or has not complied with the department's orders, (3) sites that have not been fully assessed and for which the responsible party has either not been identified or has not complied with the department's orders. The department also maintains two other lists of sites: (1) sites that are on the National Priorities List, and (2) sites that have been identified but not yet placed on the other lists. The sites listed above include all of the sites on each of the department's lists.

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET

SACRAMENTO, CA 95814



(916) 445-1248

May 7, 1986

Thomas W. Hayes
Auditor General
660 J Street, Suite 300
Sacramento, CA 95814

Dear Mr. Hayes:

I would like to thank the Auditor General for recognizing the improvements made in the toxic substances control program and for the assistance this most recent audit report will provide us in identifying those areas where further improvements can and will be made.

For the last several months, first with an interim team and now with the newly named permanent management team, the Department has been reviewing the operations of the Toxic Substances Control Division. By and large, our impressions parallel those of the Auditor General in recognizing the need to systematize the operation of the Division and to improve the monitoring of program activities. Towards this end, specific plans have been developed to improve the performance of the Division. Those plans include adding staff to perform critical functions and to bring in specialists from both the federal Environmental Protection Agency and several state agencies to develop a comprehensive policy and procedures manual, and to institute a program control system that will allow activities to be tracked closely and progress on those activities evaluated on an ongoing basis. This program control system, coupled with the detailed and site specific Bond Expenditure Plan, should provide assurance that the Division accomplishes its responsibilities efficiently and expeditiously.

In addition, efforts to establish an extensive filing system are well underway; an audit team has been established and charged with reviewing Division contracts and contract payments; and an enforcement coordinator and a supervising investigator have been appointed and are presently recruiting investigative staff that will be charged with improving the enforcement of hazardous waste laws and regulations.

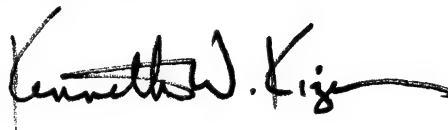
The above noted improvements, along with several others we intend to initiate over the next several months, should create an operation fully capable of meeting the challenges of this important and complex program.

Thomas W. Hayes
Page 2
May 7, 1986

The specific responses to your recommendations are detailed in enclosures to this letter. The staffing additions noted in the enclosures have been discussed with and tentatively approved by the Governor's Office and the Department of Finance and will be the subject of several late budget change proposals that will be submitted within the next few days.

Again, I thank you for having recognized our improvements and for your useful suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth W. Kizer", with a long horizontal flourish extending to the right.

Kenneth W. Kizer, M.D., M.P.H.
Director

Enclosures

DEPARTMENT OF HEALTH SERVICES RESPONSE TO
AUDITOR GENERAL'S REPORT P-582. 2
"THE STATES HAZARDOUS WASTE MANAGEMENT PROGRAM HAS
IMPROVED IN SOME AREAS; OTHER AREAS CONTINUE
TO NEED IMPROVEMENT."

RECOMMENDATION 1

Regularly inspect all facilities that treat, store, or dispose of hazardous waste.

DEPARTMENT'S RESPONSE

TSCD is in agreement that facilities that treat, store, or dispose of hazardous waste need to be inspected on a regular basis. Presently, TSCD policy requires that all major facilities be inspected at least once each year. However, non-major facilities have not been routinely inspected because they do not pose the same health risk as major facilities.

TSCD's new policy and procedure team will develop and over-see the implementation of a formal policy concerning the periodic inspection of non-major facilities that is consistent with the health risk created by lower level facilities.

In addition, the Governor's Budget had proposed 71.4 positions (which was subsequently reduced to 61 through negotiating workload solutions with the Water Resources Control Board) to augment the permitting staff in evaluating newly identified categories of facilities.

RECOMMENDATION 2

Refer hot line complaints promptly to regional and branch offices for investigation.

DEPARTMENT'S RESPONSE

The existing policy for Waste Alert referrals is to refer them immediately to the appropriate Regional Section: Northern California Section, North Coast California Section, and Southern California Section.

Where complaints indicate an immediate threat to health and/or the environment or a risk of evidentiary loss, the complaint is telecopied to the appropriate Region to ensure prompt investigation. The Northern California Section has a district office in Fresno, and, under exigent circumstances, complaints are sent to the Fresno office with a duplicate copy of the letter and report being sent to Sacramento.

Since you have identified some problems that occurred when this information was transmitted within the program, the policy will again be distributed to the Regions to clarify the Waste Alert referral procedures. We will also develop follow-up procedures to ensure that the alleged violations are properly addressed.

In recognition that the number of complaints are exceeding the original expectations, a budget change proposal has been developed to add 12 employees to the field offices to provide additional assurance that there is prompt and effective followup on Waste Alert referrals.

RECOMMENDATION 3

Conduct prompt follow up to ensure that facilities correct violations of hazardous waste laws. Maintain records on the status of follow up and corrective actions.

DEPARTMENT'S RESPONSE

The Department recognizes a need to schedule appropriate follow up to assure that corrective action has been taken at the time of violation, and to track compliance. To this end, a combined effort within the Department is underway to develop an automated system to track the status of violations. This has already been initiated for application on personal computers and will, after testing, be incorporated into the comprehensive program control system. The system's primary function will be to track the Department's follow up activities. When a formal Notice of Violation (NOV) is issued, the NOV will identify the nature of the violation and prepare a Schedule of Compliance to correct the violation. The system will have the capability to identify the date of the NOV, date of scheduled compliance, and the results of the follow up inspection.

In addition, a special group of 4 persons from other state departments, and lead by a program expert on loan from EPA will be reviewing the division's policies and procedures and developing new ones. When this process is completed in the next few months the division will have a complete and up-to-date structure to guide its work and assure that things are done consistently and at the proper time.

RECOMMENDATION 4

Formally notify each facility whenever a violation is discovered.

DEPARTMENT'S RESPONSE

As noted in response to Recommendation Nos. 3 & 6, the Department is developing a system of tracking the status of violations and enforcement actions taken in response to these violations. During the development of this system, the Department will also develop criteria and procedures for timely notification to facilities of violations and a means to monitor follow-up actions.

RECOMMENDATION 5

Require regional office to take formal enforcement actions against all facilities with Class 1 violations.

DEPARTMENT'S RESPONSE

We agree with the need for prompt formal enforcement in cases of Class I violations. Under the EPA agreement, the Department must initiate formal enforcement action against a facility where Class I violations are discovered. However, many violations identified in the past as Class I do not appear to warrant this classification.

The present definition of a Class I violation used by staff includes all violations in the areas of groundwater monitoring, closure, post closure, financial responsibility, waste analysis plans, and contingency plans. This definition is overly broad and results in some minor violations being reported in the Class I category. For example: a facility may have a perfectly adequate contingency plan, however, one of the several designated emergency coordinators may have changed and the plan not yet updated; or, a facility will have a good waste analysis plan but the rationale as to why one analysis was done is not clear. Each of these technical violations would be reported as Class I under the present system. Neither EPA, nor any other states which we are aware of, would classify these types of violations as Class I, since they present no risk to public health or to the environment. Formal enforcement action, under these circumstances, would be inappropriate.

EPA and the Department are currently discussing the Class I reporting mechanism and are taking steps to improve it. In addition, the two agencies are reviewing the various categories of Class I violations and are redefining each category to better identify violations which require strong enforcement actions. More recently, the Department staff has reviewed the reporting data submitted to EPA and has made extensive efforts to correct errors in reporting. Staff has also identified unreported RWQCB enforcement actions and corrected the reporting system to reflect such actions. The EPA analysis of the corrected data now shows an 88 percent action rate up from 21% for those facilities with Class I violations.

RECOMMENDATION 6

Develop and implement an effective system to track the status of enforcement actions taken against a facility for violations of hazardous waste control laws.

DEPARTMENT'S RESPONSE

The Office of Enforcement has developed and implemented the use of a summary data sheet to be completed by Department personnel when a case is proposed for a formal enforcement action. This information will be entered into a computer and will be updated as the case develops. The Department has developed a computer system for use in tracking the status of enforcement actions taken against facilities for violations of hazardous waste control laws. The system will be amended, as suggested in the report, to indicate whether a violation has been corrected.

RECOMMENDATION 7

Develop and implement a tracking system to identify monies due in fines and penalties, receipts, and amounts outstanding resulting from enforcement actions.

DEPARTMENT'S RESPONSE

The Accounting Section, and staff from the Enforcement and Fiscal Analysis and Management Evaluation Units (FAME) of the Toxic Substances Control Division have recently reviewed the current practice for tracking and collecting fines and penalties.

The automated accounting system allows accounts receivable to be established and partial or full payment can be credited to the account. The following plan of action will be implemented to monitor the billing, receipt, and accounting for funds.

- o The Enforcement staff will notify Accounting and FAME whenever they become aware of any fines or penalties due the State. A receivable will be established and payments credited to the account.
- o Accounting will provide a monthly listing of all outstanding receivables. This will be sent to the FAME Unit for followup. The listing is currently available and does not require any program modification. This will be reviewed by the FAME supervisor with Accounting staff quarterly.
- o Accounting/Program staff, who receive payments that appear to be receipts for toxic activities, will contact the FAME analyst assigned the responsibility for coordinating this process. The analyst will contact the county/court to acquire the court settlement/judgement to assure that the receivables and payments are handled properly.
- o The Enforcement Coordinator will establish a program to regularly communicate the need for information to the various District Attorneys who are involved in litigation.

RECOMMENDATION 8

Obtain and review court judgements and settlement statements to identify apportionments of fines and penalties awarded under Section 25192 of the Health and Safety Code.

DEPARTMENT'S RESPONSE

The Enforcement Coordinator will work more closely with the various legal jurisdictions to identify those actions where amounts may be due under Section 25192 of the Health and Safety Code. Also, as noted in the previous response, upon notification from program or Accounting that funds have been received, the analyst in the FAME Unit will follow up with the county/court/District Attorney to acquire a copy of the documentation. When this is received, a determination will be made as to whether the District Attorney has remitted the correct amount. The Enforcement Coordinator will determine the disposition of the amounts to be distributed to the local health offices.

RECOMMENDATION 9

Review all receipts for fines and penalties since fiscal year 1983-84 to determine whether deposits were made correctly.

DEPARTMENT'S RESPONSE

The deposits will be reviewed within the next 90 days and accounting adjustments made as necessary.

RECOMMENDATION 10

Reduce the size of the 60-day report from the Hazardous Waste Shipping Manifest System to make the report more manageable. This could be done by eliminating from the 60-day report those manifests that, by system design, will not be matched, such as those reporting materials of low toxicity and those reporting disposal at out-of-state or out-of-country sites. The department could also segregate those manifests that report small amounts of toxics and that could be a lower priority for department attention.

DEPARTMENT'S RESPONSE

The Department is in agreement with this recommendation and is in the process of modifying reports generated by the Hazardous Waste Information System to enhance their effectiveness as an enforcement tool.

Identification of low-toxicity manifests is currently underway. Out-of-country manifests are currently identified manually and out-of-state manifests are segregated from the other manifests. Systems testing of the 60-day report is pending, and may result in a shortened summary version of this information.

RECOMMENDATION 11

Adapt the Hazardous Waste Information System to enable the department to use it to provide information for effective program management. The department should identify the minimum data required to effectively track its permitting, surveillance, enforcement, and site-cleanup activities.

DEPARTMENT'S RESPONSE

The Department has identified several necessary enhancements to the Hazardous Waste Information System that, when implemented, will allow the System to provide useful information on a timely basis. Such enhancements should result in more effective management of all of TSCD programs.

Specifically, the permit tracking system should be incorporated into the HWIS by the end of the summer. Development of surveillance, enforcement and site-cleanup tracking systems will occur using personal computers (IBM PC-XT's) as development tools, followed by systems analysis and possible incorporation into the HWIS.

A Budget Change Proposal has also been developed that will request an augmentation of six positions to facilitate these improvements plus others that are routinely identified.

RECOMMENDATION 12

Monitor the status of contracts more closely and conduct prompt closeout audits of expired contracts and promptly disencumber funds remaining from these contracts. Further, the department should ensure that all new contracts contain provisions requiring contractors to submit invoices promptly.

DEPARTMENT'S RESPONSE

The Department has recognized the need for improvement in this area and is taking several steps that will result in a better system of contract administration. Included in the Budget Change Proposals is a request for six staff to be assigned to audit contracts on behalf of the Division. Staff are already performing these tasks on loan from the DHS Audits and Investigations Division. This audit unit is in the process of performing pre-audit analyses on contracts involved with the McColl site clean-up, and arrangements are being made with the contractors for the commencement of the audit field work.

The Department is currently evaluating expired contracts in order to identify those contracts where close-out audits are appropriate, and is taking steps to obtain release forms from contractors in order to disencumber remaining contract funds.

In order to improve control over current and future contracts, the Department is also organizing a new Program Control Unit. A BCP has been developed to add 4 new positions for this unit. The individual managing this unit will be responsible for the development and implementation of a contract development and monitoring system. This system will require systematic reporting on activities at all site mitigation projects and should provide an early identification of those projects where progress is not consistent with work schedules.

Finally, new contracts will contain language that will require the timely submission of billing invoices by the contractor. An effort will also be made to clarify billing procedures and minimize the amount of supporting documentation required to be submitted with billing invoices. Both of these steps should facilitate the prompt submission and payment of contractor billing invoices.

RECOMMENDATION 13

Maximize the use of available Superfund monies. The department should direct staff resources to ensure that monies encumbered, such as the \$10.5 million under the zone contracts, are spent appropriately and promptly. Also, the department should more expeditiously develop task orders for use under the zone contracts.

DEPARTMENT'S RESPONSE

TSCD is rapidly moving in the acquisition of outside expertise to review the current contracting and task order issuance process. This staff will include experienced contract administrators from Cal Trans and the Department of Water Resources who are familiar with contract procurement methods that can be readily adapted for use in obtaining toxic site mitigation and clean-up services in a timely manner. In addition a BCP has been developed to add 8 staff to headquarters to expedite the development and processing of contracts, amendments and task orders.

It should also be noted that 23 task orders totaling \$1.3 million have been issued since September 1985. The rate of task order issuances have recently been increasing as start-up problems have been resolved. It is the Department's expectation that this rate will continue to increase in the future as all involved parties become more familiar with the process.

The Division has also developed a Budget Change Proposal that will add 52 positions to the organization. These positions are specifically for the purpose of increasing the site mitigation effort. This along with the detailed and site specific Bond Expenditure Plan should greatly enhance the clean up activities of the Division.

Summary of Other Improvements Scheduled for Division

In addition to the plans that are itemized in the Department's responses, several other areas have been identified to be specifically addressed.

- o Two positions have been requested in a Budget Change Proposal to expedite the hiring process and reduce the present vacancy rate of approximately 18-20% to an acceptable level. In addition, staff from the State Personnel Board and the Department of Personnel Administration are assisting the Division in evaluating the current classifications used by the Division and also to assist in establishing a continuous testing process that will facilitate hiring qualified applicants immediately.
- o A major effort is underway to bring the Division's files up to standard. A system has been developed for organizing the files and an outside vendor is being solicited to convert the files on a division-wide basis. A Budget Change Proposal has been prepared asking for eight clerical staff to maintain the files in each office following the conversion scheduled for completion in August.
- o Microfilm equipment has also been ordered and two staff requested in a BCP to film the Division records. This will provide critical backup copies of manifests and site mitigation records plus reduce the storage problems for retaining information.
- o In recognition of the significant problems continuing at the Stringfellow Toxic Disposal Pits, a special team has been established, including eight additional positions that will dedicate full time to the cleanup effort at Stringfellow. This team will report directly to the Chief Deputy Director and a member of the recent Governor's Task Force on Toxics has been appointed to manage this unit.
- o The Division intends to supplement the Governor's Budget by an additional 148.6 positions, equaling 108.9 full-time personnel years for 1986/87. These positions are described in 22 separate budget change proposals (BCPs) with an aggregate total funding of \$13,325,000. These BCPs will increase the Division's expenditures in the areas of personnel services, operating expenses and equipment, and contracted services. They also provide for additional office space and for a proposed salary increase in the Waste Management Specialist category. Positions will also be added for site evaluation and ranking, enhanced surveillance, alternative technology, and site mitigation. Additionally, the BCPs will add positions for contract procurement, data processing, files management, and auditing. These positions will provide the necessary infrastructure to support our efforts to control hazardous wastes in California.

cc: Members of the Legislature
Office of the Governor
Office of the Lieutenant Governor
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps